Q. Mr. Brittain; how many students were enrolled this year in September and August?

The WITNESS: You mean, in the entire school?

Mr. DAVIS: Yes, sir.

A. 806 students were enrolled in the high school this year.

Q. How many colored students enrolled?

A. We had 15 colored students. There were three of them that had never been in school, so we actually had 12.

[16] Q. Where were those students enrolled?

A. They were enrolled at the same time we enrolled our white students.

Q. What was the date?

A. (Continuing) —which is in May of the last school year.

Q. Was there an additional enrollment, then, or some other formal enrollment or registration taken in August?

A. Yes, sir. I can't remember the date. It was a week ago Monday. All other students had the right to come in and be registered on that day.

Q. Prior to that time, had there ever been any disturbance about these colored students enrolling?

A. Well, there had certainly been disagreement of opinion, but as far as physical disturbance, there had not been any physical disturbance.

Q. Had there been any pickets at the high school?

A. There had not been any pickets at the high school.

Q. Had there been any act of violence of any nature?

A. Not to my knowledge.

Q. Mr. Brittain, when did that school open?

A. School opened on the 20th day of August, this year. That was registration date. We had a week of in-service

[17] training; then on the present Monday students started attending classes.

Q. That was on —?

A. The 27th, I believe.

Q. Monday of this week?

A. Yes, Monday the 27th.

[18] By Mr. DAVIS:

Q. Mr. Brittain, I will ask you what occurred on Monday morning of this week when school opened for classes?

By the WITNESS:

A. Monday morning of this week——

Mr. SIMMONS: I believe, if the Court please, your ruling was that whatever occurred that relates to these respondents is material and relevant. The Court would be interested in knowing that, but what other people did, or persons who are not before this Court, is irrelevant and moot, and time should not be spent on it.

The COURT: Unless that was done at the instigation of some of these respondents, or all of them. I will hear the proof subject to the objection of counsel. I will hear you.

Mr. DAVIS: He may answer, I take it, your Honor?

The COURT: He may answer.

By the WITNESS:

[19] A. Well, of course, we opened the school. We had a number of new students to enroll, approximately 27, your Honor, which raised the enrollment to 727 students.

There were pickets outside of the building. We operated the full day of school inside that building. We were not molested inside of the building.

By Mr. DAVIS:

Q. I would like to have you describe the situation outside of the building with respect to the numbers of people congregating.

Mr. SIMMONS: I object to the question, your Honor, unless it can be shown that the respondent participated.

The COURT: The objection will be sustained unless the respondents are connected with it.

Go ahead. You may testify.

The WITNESS: I am of the opinion, your Honor——

MR. SIMMONS: No. I object to that.

The WITNESS: I will take back, "I am of the opinion", your Honor.

I will say that as soon as Mr. Kasper was released from the Court—I will not say "As soon", because I don't know at what hour, but I will say in the Monday morning hours of the 27th, Mr. Kasper was on our campus talking [20] to students, along with other people involved in this lawsuit.

By Mr. DAVIS:

Q. Did you have a conversation with the defendant, John Kasper?

By the WITNESS:

A. I did not on Monday. I did have a conversation with Mr. Kasper and a group of people on Tuesday. I believe that is correct.

Q. Where did this conversation take place?

A. Took place right in front of the school door.

I came out voluntarily to talk to Mr. Kasper and his crowd. They had sent a representative in—I believe an officer of the law—who said that they wanted to talk to me. I willingly came out and talked to Mr. Kasper and all of the people that were out there.

Q. About what time of the day was that, if you remember?

A. It was in the morning, I believe.

Q. Will you estimate as to how many people were there with Mr. Kasper at that time?

The WITNESS: Your Honor, do you want me to estimate?

The COURT: Yes, sir, your best opinion.

By the WITNESS:

[21] A. I would estimate there were 25 to 30 adult people. I would estimate, in addition to that, there were 30 or 40 students.

By Mr. Davis:

Q. Would you tell the conversation that took place there——

A. Yes.

Q. (Continuing).—between you and the defendant?

A. As much as I can remember, or I will be glad to answer specific questions, either way.

I was asked what my position was on this integration. I told them that I had only three things I could do. I could obey the order of this Court or I could disobey the order of this Court and be subject to any of its results, or I could resign my job. I told him, further, that I did not believe it made any difference what man was in that job, that he would still be faced with the court order and the same decisions.

I will get down to the meat of it. There are several people here who were at that meeting and heard it.

Mr. Kasper told me that many influential people were not concerned with the laws in this case, and he wanted one of two things out of me. He wanted me to run the Negroes out of school or he wanted me to resign my job. I [22] told him I would not resign my job under intimidation—I hope you will come back to that—but I did tell Mr. Kasper—I said, "Look at this big crowd here."

He says, "You can see that the citizens of Clinton don't want you as principal of this school," and I told him that if he could present me with a petition showing 51 per cent of my students and 51 per cent of my parents didn't want me, I would resign that day.

There were other things, other discussions. There were hard words that were thrown around, but that is the main one.

Now, specifically, if you want to get into anything——

Q. Remaining on this day, which was last Tuesday. How long did that group of people remain at the high school?

A. As far as I know, they all remained while I was outside there. I talked to each and every person. I gave every person an opportunity to express his fears. I told those people, many of them that had children in the school

that I operate, and some of them still have children in the school, and I told these people that I hoped when this all got settled down that we would still have their children in our school, that it was not a personal matter between me and between them and that I had no authority to disobey the order of this Honorable Court.

[23] Q. Outside of the conversation that you had with Kasper and the members of the group there, were there any other incidents which you observed happen on Tuesday?

Mr. SIMMONS: I object, your Honor, unless he ties it in with this respondent.

The COURT: The same ruling.

Mr. DAVIS: I will ask this question:

By Mr. DAVIS:

Q. How long did the defendant remain on the scene?

By the WITNESS:

A. That, I cannot tell you. When they got through, I went in the building, and I can't say.

I will say this: Until today, we have had pickets and people all over the school grounds. They have come up and stood in the front door, and they have even got in the building, and I have asked them to leave and in some cases I have had to call the officers in to ask them to leave.

Q. Did you see the signs that were carried by the pickets there?

A. Yes, sir.

Mr. SIMMONS: I will object, your Honor, to this testimony. It is very disparaging unless they tie it in definitely with the respondent. It should be excluded, and even the [24] testimony that is in the record should be ordered stricken.

The COURT: The same ruling. Go ahead.

By the WITNESS:

A. Yes, sir, I saw signs.

By Mr. Davis:

Q. What was written or printed on them?

A. Let's take one individual thing.

There were some students out on the sidewalks carrying signs. One was a boy by the name of John Carter. He is not a member of our student body.

I also saw a car from Alabama. On it was painted, "Let's get the Negroes out of C. H. S.". There were other signs, because as I left school that afternoon there was plenty of evidence on the school grounds, your Honor, that those signs were there.

[26] Q. Mr. Brittain, could you tell the Court what occurred on Wednesday morning, yesterday?

A. In reference to what? I have been through so much in this last three days, I have been swallowed up by everybody, it seems like, newspaper men, delegations, and if you will be specific—there are so many things that happened to me this morning.

Q. Did you see any acts of violence?

A. Yes, sir, I did.

Q. Would you tell us, if you remember, when it was; [27] what day?

Mr. Simmons: I object, your Honor, unless he can tie in the respondent with such alleged acts of violence.

The Court: Same ruling.

The Witness: I am not going to attempt to mention anything I have heard, your Honor; only what I have seen myself.

The Court: All right.

Mr. Simmons: Your Honor, I think he ought to be instructed one step further: what he has seen in which the respondent participated.

The Court: You may state what you have seen in which the respondent allegedly participated, or in which he did not, but unless that which you have seen would connect it with the respondent, it will not be considered by the Court.

By Mr. Davis:

Q. Proceed.

By the WITNESS:

A. On Tuesday during our lunch hour I was in the office, along with four newspaper reporters who had come and wanted information. Some of them may be in this courtroom now.

I looked out my window. I saw this big delegation of [28] people coming down the sidewalk towards the school. In the front of this group there were some Negro boys, one of whom I enrolled in my high school. Some of the others were also enrolled, at least two others. Behind these boys was a great group of people. I will specify that by estimating, your Honor—that is all I can do—maybe 50 to 75 people marching along behind these boys.

The reporters all came over to the window when they saw it. They thought it was a Negro delegation at first because Negroes were in front of these boys.

When they got in front of Doctor Bishop's office, there was a fight. Fortunately, the police were right across the street from where this occurred. They rushed across the street and seized the boys who were apparently involved in the fight, a Negro boy and a white boy. I understand that the Negro boy will testify. Of course, I wouldn't attempt from my distance to say what happened, except there was a fight, with considerable commotion.

These boys were taken to the city jail, the Negro boy and the white boy, and a large delegation gathered right around the doors of the jail.

The sheriff of Anderson County came over to my office. I want to make this point very clear, your Honor. He told me——

[29] Mr. SIMMONS: I will object to that, your Honor.

The COURT: Sustained.

The WITNESS: This involved me, your Honor, very deeply, in that I have been accused of being the person who sent those Negro students home Tuesday afternoon, when it was the law enforcement officers——

Mr. SIMMONS: I object to that, your Honor.

The WITNESS: Now, wait a minute.

He told me this, your Honor. He told me this.

Mr. SIMMONS: That is not related to the respondent.

By Mr. DAVIS:

Q. Did Kasper make any statement to you about that, defendant Kasper?

The WITNESS: About what?

Q. About what you are going to relate?

By the WITNESS:

A. In the group—I want to say this about Mr. Kasper: In our discussions, he in no way was willing to recognize any legal authority. He told me, he said, "You are the man", and some of the people in this group—and he was the leader. He was right there. He told me directly, he said, "If you keep this up, there is going to be [30] bloodshed."

I pointed my finger in the group, and I said, "I hope the rest of you people heard this threat."

The person who made it then denied it had been made, but I heard it very clearly.

Q. Did Mr. Kasper say anything to you about what authority he did recognize?

A. I believe Mr. Kasper said——

Mr. SIMMONS: I object to what he believes, your Honor.

The WITNESS: I will say what Mr. Kasper said.

Mr. Kasper—I want to be sure of this—he told me that important men in this country had evaded this type of a thing, and that I could do it if I wanted to. I told him that we had fought this case through your courts, and that I was under the impression that I had no choice in the matter except to get out.

Mr. DAVIS: That is all.

[41] HORACE B. WELLS, called as a witness by and in behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. DAVIS:

Q. State your name.

A. My name is Horace B. Wells.

Q. What is your occupation?

A. I am editor and publisher of the Clinton Courier News.

Q. Do you know the defendant John Kasper?

A. I met him Sunday.

Q. This past Sunday?

A. Yes, sir.

Q. Where and what time did you meet him?

A. I met Mr. Kasper at my office at 3 o'clock on Sunday afternoon.

Q. Who else was there at that time?

A. At that time, W. E. Lewallen, our police commissioner—chairman of the police committee, Frank Hobbs, [42] and Mr. Roy Purkey, were present at that time, and also with him was a man named Mr. Till.

Q. Did you have a conversation with Mr. Kasper at that time?

A. The whole crowd of us had a conversation with him, yes, sir.

Mr. DAVIS: Let me ask you this question:

Q. Did you have any previous information about Mr. Kasper, without saying what the information was?

Mr. SIMMONS: I will object to that, your Honor; hearsay.

The COURT: Sustained.

By Mr. DAVIS:

Q. Just tell the Court what conversation you had with Mr. Kasper.

By the WITNESS:

A. I told Mr. Kasper when we went in that we understood he was in town, and that the crowd would like to discuss with him the problem that faced the citizens of the community, in the hope that maybe he would understand what we were up against. We told him that the people of Clinton and Anderson County were opposed to integration.

Q. Let me ask you, Mr. Wells: What did he tell you he proposed to do?

A. He told us that he was there to organize a picket line [43] around Clinton High School to oppose the integration at the high school.

Q. Did he say who sent him?

A. I asked who sent him. He said no one sent him, that he had read about it in the paper and had come of his own accord, that his life had been dedicated to opposing the further spread of integration.

Q. Was anything said to him about the legal status of segregation in the Clinton High School, or integration?

A. Yes. We told him that was the purpose of our desire to meet with him. We had to inform him, since he was newly arrived, that the Clinton school was being integrated on a Federal Court order and that the people of Anderson County had fought for five years against it, that we had lost, but that we believed in the law, and that we believed that our government was founded upon law and that the schools were being opened according to law, and we urged him not to create any trouble.

By Mr. DAVIS:

Q. What did he tell you he proposed to do?

By the WITNESS:

[44] A. We asked him what he proposed to do, and he said that he planned to form picket lines around the school to discourage children from attending. We asked him how he hoped to gain anything by that other than to cause confusion and trouble. He said that in a place in Delaware and a place in Maryland that he had been successful through

his efforts in one place in preventing integration of a school, and in another place that the school system was closed down through his efforts.

Q. Did the defendant make any comment about the Federal Court order?

Mr. Simmons: Your Honor, that is a leading question, again.

The Court: Overruled. If he did, the Court wants to hear it, what he said.

By the Witness:

A. In our discussion we had pointed out to him that we were acting under a Federal Court order specifically directed to Clinton, and asked him if in any of these other instances there was a Federal Court order. He said that there was in one of the instances.

We talked for an hour, so we covered a great deal of ground.

We pointed out to the defendant that we believed in law enforcement. He said that there was a higher authority [45] than the courts. He said that the people, under common law, that the will of a majority of people was superior to any court, and that if enough people opposed anything that the opinions of the courts could be changed, and it was on this theory that he was operating, that the will of a majority of the people was superior to any court ruling and that it was not necessary that the people obey that court ruling.

Q. Did he tell how the majority of the will of the people would be shown?

A. No.

Q. In that conversation was any literature shown that the defendant had there or that came from the defendant?

A. He had a leaflet that was handed out. His name was signed to it. I asked him about that. I said, "How can you explain"—He assured us that everything would be peaceful.

He said, "We don't want any trouble. We are peaceful."

I said, "How can you be peaceful when the very material that you distribute has the words in it 'We are not an attack program. We must fight. You must fight with us.'"

I said, "Those are not peaceable words."

Q. Mr. Wells, will you introduce that circular there as Exhibit 1 to your testimony?

[46] Mr. SIMMONS: What is it?

The COURT: Let counsel see it. You may see it, Mr. Simmons.

Mr. SIMMONS: I am going to object to the admission into evidence, unless it can be shown that the defendant, or one of the respondents, personally is connected with it.

The COURT: The objection will be sustained, and it will be stricken from the record unless one or more of the respondents is connected with it.

By Mr. DAVIS:

Q. Did Mr. Kasper acknowledge that as his literature?

By the WITNESS:

A. I didn't ask him if it was his literature. His name was on it. We discussed it, and he discussed it as if it were his. I didn't ask him the specific question if it was his.

Q. What did he say about it?

A. He said that—we didn't really argue about it; we discussed it.

I said, "How can you explain, if you are on a peaceable mission, that the words of this circular you are distributing are fighting words?"

[47] He said that they had no intention of causing any trouble.

Q. Did he ever deny that he was distributing that literature?

A. No, sir.

Q. Were there circulars like that in circulation in and about Clinton?

A. There were many of those in circulation about Clinton.

Q. Did you see Mr. Kasper after that meeting on Sunday afternoon?

A. Yes, sir.

Q. Where did you see him the next time?

A. Well; after that meeting I went on down to the jail. He was talking over the telephone. After that I saw him—I did not see him again until Tuesday morning at the preliminary hearing on the charges following his arrest and in my office on Sunday afternoon.

Q. After that time did you see him anywhere?

A. I have seen him on a number of occasions around the school and around the courthouse.

Q. Clinton High School?

A. Clinton High School, yes, sir.

Q. What would he be doing on those occasions when you saw him around the Clinton High School?

A. One time I have seen him there just being there with [48] a crowd of people, standing around talking.

Q. Do you know of any meetings held at the courthouse on Tuesday or Wednesday evening?

A. Yes, sir. There was a mass meeting held—after the trial on the preliminary hearing, he announced in the hall there would be a mass meeting that evening, and there was a meeting and some several hundred—maybe 500 people—attended the meeting on Tuesday, then last night I did not go down there, but I could hear them from my office. There was an even larger crowd present last night, which some estimated as high as a thousand people.

Q. Were you there on Tuesday evening?

A. No, sir.

Mr. Davis: All right. You may ask him.

CROSS-EXAMINATION.

By Mr. Simmons:

[50] Q. Had you observed a group there picketing the school?

A. Yes, sir.

Q. Approximately, how many were picketing the school?

A. On Monday morning, while Mr. Kasper was in jail, there were groups that varied from two to eight carrying signs. There were probably—oh, 25 or 30 youngsters, and maybe about that many older people.

Tuesday there were a few more people there, but not too many more.

Wednesday all day long there were rather large groups, and after the meeting Tuesday night there were very large groups.

The police officers and the deputies had received instructions to keep them all off the school grounds and keep them back away from the school property. There were hundreds of people there all during the school hours from the time school opened until after school closed. They were there and all over town. They were driving around in [51] cars with signs on the cars, honking their horns and disturbing everybody in town. They ran in and out of the drug store, chasing colored people around town, starting at the school. They were just swarming over the town. They had the whole town upset and in a tremendous furmoil.

Q. How many people, approximately, were participating in it during the time most of the people were participating?

A. It is difficult to say when you have such a movement of people around, but I would say there were around 200 people—between 150 and 200 people. Many of them on Tuesday were young people.

Q. There was picketing going on while Mr. Kasper was in jail; is that correct?

A. Yes, sir.

[52] Q. During Monday, Tuesday, and Wednesday, what efforts did you observe there by the police department in maintaining order?

A. Clinton is a small town, and the police there, many of them, are older men, have not been trained to handle large crowds, but they had done a very good job of trying

to keep people away from the school grounds, trying to [53] avoid violence, trying to maintain order. It has been a very difficult problem, sir.

Q. Are you positive, Mr. Wells, that you reported Mr. Kasper correctly on his remarks concerning this Court and the Supreme Court?

A. I did not tell you what he said about the Supreme Court. Would you like to hear what he said about the Supreme Court?

Mr. SIMMONS: No. I am not interested in that.

Q. What did he say to you concerning this Court? I want you to quote him correctly.

A. He did not mention this Court specifically, but he mentioned this Court's order. He said that——

Q. This Court what?

A. He did not mention the judge, but he mentioned the order of this Court. We didn't discuss the judge; we discussed this Court's order issued on January 4th. He said that the people did not have to obey the order, that they did not have to obey the court order, the Supreme Court ruling, that the people were superior to the courts and that the people, under common law—he started quoting law. He said that under English common law that the people are superior to the courts and it is not necessary that they obey [54] these orders.

Q. Did he tell you that a democracy is run by a majority of the people, will of the people; did he use that expression?

A. No, he didn't use that expression. No, sir.

Q. Do you deny that is an incorrect statement of what he told you?

A. I would say that in discussing—we discussed this thing for an hour and ten minutes, as I remember. I looked at my watch there. He could have said that. I won't deny it. In an hour and ten minutes, with four or five people discussing something, it is quite possible.

Q. It could have been the gist of what he said, couldn't it?

A. No, sir. The gist of what he said was that the Supreme Court was influenced by aliens and one of the members was a communist, and even the Supreme Court's ruling, as far as he was concerned, was of no value.

Q. He told you that a member of the United States Supreme Court was a communist?

A. Yes, sir. I asked him the specific name of the member. He said "Justice Frankfurter".

Q. You are positive about that?

A. Yes, sir, I am positive. I took an oath to tell the truth, and that is the truth.

[55] Q. Did you challenge him on that statement?

A. I did not challenge him on that statement. I just turned my back, when he said that, in disgust.

Q. At the time you have observed Mr. Kasper during the period of Monday, Tuesday, and Wednesday, have you seen him on each of those days?

A. I did not see him Monday. He was in jail Monday. I didn't go down there. Tuesday, I was at the hearing, and Tuesday afternoon I saw him in the hall. I talked to him. I was with him then. On Tuesday afternoon he went down to the high school. He was there, and he formed a little parade and came back down. I saw him there. I did not see him any more until after lunch. He went to lunch. I didn't see him any more then.

On Wednesday, I saw him at the high school grounds. I did not see him any more, because I had other things to do. I did not leave the office except in the morning.

Q. On the only occasion when you saw Mr. Kasper, was he demeaning himself in a peaceful law-abiding manner?

A. Mr. Kasper was with those groups that I mentioned earlier. He, himself, was just standing around.

Q. Your answer to my question is that he was demeaning himself in a peaceful law-abiding manner on all occasions?

[56] A. Yes, sir.

Mr. Simmons: No further questions.

Mr. Davis: Mr. Wells, I would like to ask one more question.

REDIRECT EXAMINATION.

By Mr. DAVIS:

Q. Did Mr. Kasper tell you when he came to Clinton?
A. We discussed that, and he said that he came in on Saturday, and he spent the night in his car along the side of the road. I do not know what time he came in Saturday.

RECROSS-EXAMINATION.

By Mr. SIMMONS:

Q. Did he tell you why he came to Clinton?
A. Yes, sir. We asked why he came to Clinton. He said that he read in the newspaper about the movement to integrate the school and that he came to do what he could to prevent integration of the school.
Q. Did he tell you why he came other than that?
A. He told me that—he mentioned that he had dedicated his life fighting the spread of integration.
[57] Q. Did he mention communism?
A. He could have. The only mention of communism I heard was in this connection, that the Supreme Court—was in connection with the Supreme Court.
Q. Did he tell you he was fighting communism?
A. No, sir, he didn't say he was fighting communism.

Mr. SIMMONS: That is all.

(Witness excused.)

LEO GRANT, JR., called as a witness by and in behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. LEWALLEN:

Q. State your name, please, to the Court.
A. Leo Grant, Jr.
Q. What is your profession, Mr. Grant?
A. I am an attorney-at-law.

Q. Practicing at the Tennessee Bar?

A. Yes, sir.

Q. Mr. Grant, are you a resident of Anderson County, Tennessee?

1581 A. Yes, I am.

Q. Have you had occasion within the last two or three days to be in and around Clinton, Tennessee?

A. Yes, I have.

Q. Your office, I believe, is located at Oak Ridge, Tennessee?

A. Yes, about six miles from Clinton. Clinton is the county seat, the site of our court. I go to Clinton almost daily.

Q. I will ask you, Mr. Grant, if in the company of the assistant attorney general, Mr. Fischer, myself, and Mr. Sidney Davis, here, you accompanied us or were in front of the high school when we had a conversation with Mr. Kasper, over here?

A. Yes, I did. On the morning of Wednesday, August 29th, in company with Mr. Fischer, Assistant Attorney General, and Mr. Sidney Davis, a local attorney, and yourself, I did have a protracted conversation with Mr. Kasper.

Q. Now, just tell His Honor where that conversation took place.

A. The conversation took place in front of the Clinton High School, approximately 50 yards from the front door. There was an automobile parked that had a placard on it—two placards. Mr. Kasper's position was a few yards to the left of this automobile.

1582 One placard said, "Old Man Lewallen, the nigger lover."

The other placard said, "Get Borden, the nigger-lover. Keep the Africans out of Clinton High School."

Mr. Kasper was in the center of a group which, as I stood on the steps of the high school—I was there to observe, specifically observe this scene. I counted the individuals surrounding Mr. Kasper.

Q. What was your count, Mr. Grant, on that occasion?

A. 163 people. That did not count the pickets.

I moved down the sidewalk and accosted about a dozen of the pickets, who were children—not any teenagers; children. I went to those that had the most inflammatory signs. I asked their names. About half of them told me their names, and the other half told me what they thought of me.

I then went over to the group around Mr. Kasper. When I arrived, a very heated discussion was taking place between yourself, Mr. Davis, Mr. Fischer, and Mr. Kasper.

Q. Could you relate the substance of that conversation there between we three and the defendant Kasper?

A. Yes, I can.

I had some difficulty pushing my way through the crowd. [60] They were extremely hostile. They kept poking signs in my face, and they kept crying, "Nigger lover", pulling at my coat, demanding to know who I was. I finally got up directly to the rear of Mr. Fischer. I was standing approximately two feet, I would say, from Mr. Kasper.

When I arrived, being a lawyer, I was very interested to hear what Mr. Kasper had to say. He was propounding a doctrine to the effect that the court could say what they wished, but the will of the people was supreme.

After he had finished this, he maintained this was the basis of the English common law.

He was then asked by you, Mr. Lewallen, "What is your purpose here, Mr. Kasper?"

At this point, I took a pencil and a piece of paper out of my pocket that I had been taking the names on, and started jotting notes down on all of this.

Q. What was Mr. Kasper's answer to the question?

A. "I am here to keep the Negroes out of this school."

At this point, Mr. Lewallen volunteered to represent Mr. Kasper free of charge as an attorney if he, Mr. Kasper, could tell him any legal means this could be done. Mr. Kaspor said he could not, but he knew a means of keeping Negroes out of the school.

Q. What was that means, Mr. Grant?

[61] A. He said that he was going to use the will of the people, and he voiced—looking now at me, he said that

I could be a hero to the community if I would join this group.

While all of this was going on, the four of us were being jostled about, obscene phrases were being used, people kept poking signs in our face. Mr. Kasper stood in the middle. He was the leader. He was the one that was looked at. Every time he would make a point, the crowd would indicate their approval of this. One woman, in particular, was standing directly next to Mr. Kasper, and whenever she would scream an insulting and provocative remark, Mr. Kasper would turn and smile at her.

In the meantime, he was keeping up a running commentary to the effect that this court order didn't have to be obeyed, because it was not obeyed in Delaware, and the reason it was not obeyed in Delaware was that there was —I believe the words were, "Social pressure". At this point, the gentleman right there with the dark hair——

Q. Who is that gentleman: do you identify him as Mr. Leo Bolton?

A. Yes, it is. At the time, I didn't know his name. I got out there to the edge of the crowd and found out.

Mr. Bolton kept interrupting with statements like, "Let's go in and pull those Negroes out and let the Indians loose [62] on the reservation. Put the Indians back in."

Mr. Davis was holding a very animated conversation with a gentleman I had seen around the courthouse before.

Q. Who do you identify him as?

A. In the yellow shirt. I believe I used to know him as a constable or a candidate for constable—Hankins.

Q. Hankins is one of the defendants here?

A. Yes. He was advocating that the solution of the problem was simply that we move into the schoolhouse and pull the Negro children out.

Q. Mr. Grant, while this conversation was taking place there between we attorneys and Mr. Kasper, what was the general tenor of the crowd concerning Mr. Kasper?

A. It wasn't a crowd; it was in the nature of a mob. Mr. Kasper was the leader. When he asked for silence or indicated silence, they shut up. When we attempted to speak or make a point, his followers continually inter-

rupted. Whenever he spoke, he spoke in very low tones, a very low voice, and gestured for silence, which he could get.

Any of his remarks concerning the Supreme Court, concerning defiance of this Court's order, concerning the fact that Mr. Brittain was a weak sister and should be [63] replaced, the Negroes would be kept out of this school, whenever these remarks were made, his followers would jiggle their signs up and down.

On the outskirts of the crowd there were 15 or 16—oh, I would say between 17 and 18-year olds, and they had sticks that were pieces of—oh, I guess one by two lumber that had been broken off, and every time Mr. Fischer or myself would score a point with Mr. Kasper in our discussion, these pimply-faced youngsters would start to strike their clubs against their legs and gesture with them, hit them in the palms of their hands, and each time we turned around and gave them a hard look they would quail, but as Mr. Kasper's discussion grew more animated, they would draw up close, and finally it was—well, we were only provoking the situation further, and finally we withdrew. I asked Mr. Kasper before I left if he was going to hold an organization meeting. He said, "Yes". I asked what time. He said, "7:30".

We made our way through the throng. At that time I took several names down, many names of school children, and I took Mr. Bolton's name. I took Mr. Hankins' name. I asked Mr. Kasper his full name, asked if he had a middle initial, to make absolutely certain I was spelling it correctly, and I took the name down of a woman who was abusive. She was silenced with a remark or two.

Mr. LEWALLEN: Let me ask you a question,

[64] Q. During the conference between the attorneys and Mr. Kasper, did you hear the remark or remarks concerning the orders of this Court and the Supreme Court of the United States?

A. Yes, sir.

Q. What were those remarks?

A. He was asked directly by you, and you were telling

him the case as nearly as you could give it and the date. You said, "The United States District Court". You spoke as a lawyer would to fix the case firmly in mind. You told him of the order and asked him what he was advocating that these people do in regard to that order.

At this point I took my pencil and put it down. His answer was, "We will disregard that. The will of these people is superior to it."

Then he went into a tirade——

Q. Did you hear him say any more concerning the Supreme Court or the members thereof?

A. Yes. He stated that the members of the Supreme Court—at least one of them—was a member of the communist conspiracy.

Q. Which one was that; did he identify him by name?

A. Yes, sir. Justice Frankfurter.

Q. Justice Frankfurter?

[65] A. Yes. He also said that Justice Black was incompetent to hold his position. He stated that all of the Court "lacked judicial experience and legal training," and he gave us a disseriation——

Q. Do you remember any conversation concerning one of the members of the Court having been a municipal judge?

A. Yes. He said Justice Black had been a municipal judge for 18 months in Birmingham and that he had been relieved from his post by his incompetency, and only the communist conspiracy had succeeded in promoting Justice Black to his present high office, and that order that we were operating under was an example of this conspiracy, this communist conspiracy.

All of this, of course, was deliberate with many side remarks about English common law and the will of the people, resistance, and so forth.

Mr. LEWALLEN: You may ask him.

CROSS-EXAMINATION:

[66] Q. What did you hear Mr. Lewallen quote to Mr. Kasper there?

A. I heard him tell Mr. Kasper that this order issued by Judge Taylor in January—that he, Mr. Lewallen, had been the attorney for Anderson County and attempted to prevent integration, and he said, "That order provides that we must integrate the high schools in this county," and then he went on to say, "Now, in the face of that order, what do you want us to do?"—"What do you want these people to do?" I believe he said.

[67] Mr. Kasper's statement—he was just speaking in a very low, smooth voice; not agitated. He said, "That order can be disregarded. It has been disregarded in similar orders in Delaware and by the use of picket lines and student strikes, I have succeeded in keeping Delaware segregated."

He went on to say that we, talking to the four of us, could be heroes in our community if we advised the principal and faculty to disregard that same order, and this would keep us segregated.

As I say, I was, very frankly, in this crowd for the sole and exclusive purpose of collecting evidence as to what he was doing. I was taking notes at the time.

Q. By whom were you employed?

A. By no one. I came up to Clinton on Wednesday morning to meet an attorney concerning a lawsuit that we had in Lake City. This attorney—Mr. Lewallen's wife is a school teacher at the school.

I arrived and found him very much perturbed. He said, "My wife is teaching at the school up there, and there is a mob."

So we got in the car, and about that time we arrived at the school. Mr. Davis' wife is also a school teacher.

[68] Then Mr. Fischer pulled up. I went in the building with them, and the scene in there was one that—these people were close friends of mine, and their wives. I know them. Outside you could see a mob. As we drove up the calls and cries—Mr. Brittain was in a high state of nervous tension.

The four of us said, "We have got to do something about this." Mr. Fischer had explained to us that the police

couldn't stop it. We had no city ordinance against a parade. The police force was a little too overwhelmed, so the four of us decided we would do something, and it was decided that since I was not known to the majority of them, that I would do the name-taking. I didn't expect to find them in it, but the first thing I knew, I turned around and Mr. Lewallen and Mr. Fischer and the others had moved to the center of the crowd and were conferring with Mr. Kasper, so I immediately got over there, expecting trouble. There was no—outside of being shoved or pushed, there was no violence. In fact, I think the four of us were perfectly safe. The police were across the street.

Q. You were not afraid while you were there in this position, were you, Mr. Grant?

A. Let me say this: whether I was afraid or not, I would have been in that crowd.

Q. Did anybody threaten you with violence?

[69] A. Yes.

Q. Who; one of the respondents in this case?

A. Well, the black-haired—the gentleman with coal black hair behind you, Leo Bolton.

His statement—I don't know how you would consider it or construe, "We are going to get those Negroes and nigger lovers." What construction you would put on that, I don't know.

Mr. Simmons: Mr. Grant, you realize that is not an answer to my question.

Q. I asked if anybody there threatened you with violence?

A. I would say that they made remarks that could be construed as threats, yes. "Get them. We will run them off. Chase them out. Run them back to where they came from. Send them back to their nigger friends." Things of that type.

Q. Were they referring to you?

A. Yes, sir, they most certainly were. They were hanging on my arms.

Q. Did they know you were from Oak Ridge?

A. Two or three of them did, yes. As I say, that is why I just took notes. I didn't say anything. I figured it wasn't my town and I would just keep quite. We have integration in Oak Ridge.

[70] Q. Are you a lawyer in private practice in Oak Ridge?

A. Yes, I am.

Q. Now, Mr. Kasper said, "This country is a law of the majority." That is the substance of what he told you?

A. No, I wouldn't say that is the substance. He said—he would preface his remarks with statements, "This country is governed by the will of the majority of the people." Then he went on——

Q. Do you find any fault with that?

Mr. LEWALLEN: Your Honor, we object to the interruption of counsel. We would like to have the witness be allowed to finish his answer.

Mr. SIMMONS: I am sorry. I thought he had finished.

By the WITNESS:

A. (Continuing)—He said, "The country is governed by the majority of the rule of the people." He then went on to say this law was superior to any court, to any congress, to any legislature, to any law enforcement.

Mr. Lewallen then asked him, "If the law along this road says 25 miles an hour and your group feels they can drive 30," what is your feeling?

He refused to answer. He was then asked, "There are 60,000 people in Anderson County. You have a couple of [71] hundred here. This is the will?" He again evaded it.

Then he started with—he answered all of the questions with, "The English common law holds that the will of the people is supreme to courts, laws, congresses," and that his group was expressing the will of the people and that they could disregard and not obey the orders of the court because of this common law, English common law, and this catechism, repeated with variations, was in substance his answer to any question.

By Mr. SIMMONS:

Q. At any time did you observe any violence on Monday, Tuesday, or Wednesday?

A. Yes, sir, I did. When I——

Q. Before you answer that further, did you see any of the respondents here connected with that violence?

A. Well, in front of the school there was a large gathering of people——

Q. I said "violence"; not congregation; violence. You know what I mean by "violence".

A. I most certainly do.

In this group, as their acknowledged leader, was Mr. Kasper. Some city block from Mr. Kasper's position—and this following extended along the block—I witnessed—we were passing at the red light and looked down it, this [172a] attack that Mr. Brittain spoke of. Now, understand me. Mr. Kasper was a half a city block from it. Mr. Lewallen and I stopped at a red light above it, and that would be his only connection with violence, his personal connection.

The next another instance, in front of the little ice cream stand around the corner. We were in front of the school in Mr. Lewallen's car. We saw boys break off from the group around Mr. Kasper, three or four, with clubs. They ran down a back alley.

I thought Mr. Lewallen's wife was in an automobile. I saw a red-headed woman in a car with the same markings. I hurriedly told Buford to get down there. We arrived. It was not his wife. The white boys came up with sticks and stones and saw us. They had seen us around the school, and they returned. The fracas didn't develop.

As far as seeing Mr. Kasper strike anyone or throw anything, no, I did not.

Q. Then you saw no violence?

A. Your definition of "violence", sir, is what I question.

[72] REDIRECT EXAMINATION.

By Mr. LEWALLEN:

Q. Mr. Grant, you say on Wednesday morning when you went to the Clinton High School in company with Mr. Fischer, Mr. Davis, and myself there was a considerable group of people around Mr. Kasper and others there in front of the school?

A. Yes, sir.

Q. In the block there?

A. Yes, sir.

Mr. LEWALLEN: I want to ask you this question, Mr. Grant:

Q. Were you inside of the school building, also?

A. Yes, sir.

Q. Did you observe conditions in the school?

A. Yes, I did.

Q. Do you know whether there was a feeling of unrest [73] among the people there?

A. There was a feeling of fear and anxiety and tension. Those people were afraid.

Mr. LEWALLEN: I want to ask you this question:

Q. What was the condition around the school on Wednesday morning; was it such as would and did cause a disrupting influence in the Clinton High School when you were there in company with Mr. Fischer, Mr. Davis, and myself?

A. Yes, sir.

While I was there, it was necessary to call a special assembly of all the students as a result of this condition outside.

[85] The COURT: The Court overrules that motion.

Do you have any proof to offer?

Mr. SIMMONS: Yes. Take the stand, Mr. Kasper, please.

FREDERICK JOHN KASPER, one of the respondents herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. SIMMONS:

Q. Mr. Kasper, please state your full name.

A. Frederick John Kasper.

Q. What is your official capacity, Mr. Kasper, speaking businesswise?

A. I am executive secretary of the Seaboard White Citi-
[86] zens Council, sir.

Q. What is the Seaboard White Citizens Council? Tell the Court, briefly, what the Council consists of.

A. It is a council dedicated to the preservation of constitutional government, constitutional rights, state's rights, segregation.

Q. When did you go to Clinton, Tennessee, Mr. Kasper?

A. I came to Clinton, Tennessee, on Saturday at 1 p. m., last Saturday.

Q. What was your mission when you went to Clinton, Tennessee?

A. My purpose was to carry out the agreed plan to find out what could be done in the face of the impending integration here beginning in Clinton, Tennessee, for the first time.

Q. Pursuant to what authority did you go to Clinton, Tennessee?

A. I went pursuant to the authority of the Seaboard White Citizens Council.

Q. Is the Seaboard White Citizens Council affiliated with other citizens' councils?

A. Yes, sir, it is.

Q. Was there any action taken by other citizens' councils corresponding to the action taken by the Seaboard
[87] White Citizens Council?

A. Yes, sir, there has been.

Q. Tell us whether or not during the past three or four

days at Clinton, Tennessee, other representatives of white citizens' councils have been there?

A. Yes, sir, they have been.

[94] Q. Mr. Kasper, did you have a conversation there with the principal of the Clinton High School? You heard his testimony on that, did you?

A. Yes, sir, I did.

Q. Were there other gentlemen that accompanied you?

A. Yes, sir.

Q. About how many?

A. I would say close to 300. I may be wrong.

Q. Approximately 300, in your estimation?

A. Yes.

Q. What was the mission of that group?

A. They enjoined upon me to serve as their spokesman to ask Mr. Brittain his position in this entire conflict there at the school concerning integration of the Negroes into the school system at Clinton, and they asked me—they expressed to me, I should say, that they felt that Mr. Brittain being in a position, direct position, to do so, could not [95] grant that relief, some kind of immediate relief from the tension that has never before existed in this community, by calling a meeting of the school board of Anderson County to discuss ways and means to build high school facilities for the Negro students in the county, whether it were an extension to be added to the grammar school now existing at Clinton or a building, an outside unit high school, located at Clinton or elsewhere in the county, and that the Negroes should be removed from the school at the earliest time, and an appeal made perhaps to this Court. I was told by some of those gentlemen that would be my job, but I said that these East Tennesseans, lawyers who have been familiar with this entire procedure, it would be their job to petition this Court for injunction relief, perhaps, or whatever relief—we have talked about injunction here—but in the face of this tension there at Clinton with the students attending high school, some available church,

or go to Knoxville, as formerly, by bus, until that school could be constructed for them.

The people who were with me expressed belief that if Mr. Brittain showed unwillingness to act or try and bring some relief—merely let the situation deteriorate, that he might resign his position and another man from the school board, or by different means of referendum systems in the county, could take the position Mr. Brittain seemed un-
[96] willing to take for the white people.

Q. Did that group of some 300 odd people, did they authorize you to make any demand regarding his resignation?

A. Yes, they did.

[97] Q. When you were released from jail, when did you next come in contact with the Clinton High School building; when were you next there?

A. Approximately an hour later.

[98] Q. Were there pickets there at the time you arrived or not?

A. There were a few students who had picket signs with them, yes. I went to the building—I went to the high school building at the request of the students who had been in the courtroom, some hundred of students who asked that I come down there with them. There were others out there at the time.

Q. How many people have milled around the school? You heard testimony that they were milling around the school at various times Tuesday and Wednesday?

A. Yes, sir.

Q. What is your estimate of the crowd?

A. I think it ran from 50 to 400 at different times.

Q. During that occasion, was there any evidence of any violence, that you observed?

A. Yesterday afternoon I was down by the high school and a number of students began to run up toward the courthouse, and there was some sort of disturbance. I did not actually see it.

Q. That is all you know about that?

A. Yes, sir.

[99] Q. When were you served with this temporary restraining order?

A. At approximately a quarter to seven last evening—I mean, a quarter to eight.

[100] May I correct that, please?

Q. Give the Court that time.

A. A quarter to eight last evening.

Q. A quarter to eight last evening?

A. Yes, sir.

Q. At the time the United States Marshal handed you that paper, will you tell us what you were doing?

A. I was addressing a crowd of people at the Clinton County—at the Anderson County Courthouse.

Q. You heard one witness testify that you called out the names of some of these petitioners here on that occasion?

A. Yes, sir.

Q. Did you do that?

A. Yes, sir, I did.

Q. Tell the Court just exactly what occurred from the time you received that paper until you called off the names of the petitioners?

A. The marshal's—as I was speaking, they came to me, interrupted me, and asked me to come aside. Then we went inside. They handed me those two papers and they said, "This is a writ for injunction. You must appear"——

Q. What did they call that?

A. I believe it was "writ for injunction". I am not too [101] clear on what they actually did say. They said, "You are to appear in this Court Tuesday at 1 o'clock to show cause why the injunction should not be issued."

Q. Show cause what?

A. Show cause why this injunction should not be issued. I did not——

Q. Did they give you to understand you were under injunction at that time?

A. No, sir, they did not. They did not discuss that at any time. They did not tell me I was restrained from

speaking over there to the crowd, or anything. They said I was to appear in this Court today.

Q. Did they read that injunction to you, Mr. Kasper, on that occasion?

A. No, sir, they did not read it to me.

Q. Is it your testimony that on that occasion they read to you neither the petition nor the restraining order; is that correct?

A. Yes, sir, it is my testimony.

Q. Did you read either the petition or the restraining order yourself, personally?

A. No, sir. I just glanced at it because of the sort of pressure of the people outside there. I just saw the paper that said about injunction. That is all. I stuck it in my pocket and went on outside. I slit it open, saw my name [102] scattered through there a number of times with some other peoples'. I read just a part of who had filed the plea—who had filed the petition.

Q. How long did you say you were speaking at the time the marshals arrived?

A. Well, we had just begun our meeting.

Q. This man called you to one side and then transpired what you have just related?

A. Yes, sir.

Q. Then, did you go back and speak some more?

A. Yes, sir.

Q. What is the interval of elapsed time from the time you left the speaker's stand until you returned to the speaker's stand?

A. About a minute and a half, or a minute.

Q. It was then that you called off the names to your listeners of the petitioners?

A. Yes, sir.

[108] Mr. LEWALLEN: Your Honor, I thought we were only trying the motion for temporary injunction at this time. I think that was Mr. Simmons' expressed desire.

The COURT: I advised Mr. Simmons and Mr. Kasper that

they should have time, a reasonable amount of time, and it is not the purpose of this Court to hear them both unless all parties agree that the Court may hear them at this time.

Mr. LEWALLEN: We agreed, your Honor, to hear it on the second day. If Mr. Simmons will agree, we will go ahead.

[109] Mr. SIMMONS: I was thinking that your Honor would not foreclose me if we wanted additional time, and I certainly would grant my brother here the same opportunity. I think while we are washing the linen, we might as well do a good job of it.

The COURT: If you prefer.

First, I might ask you, Mr. Simmons, if you want to file an answer to that writ? Do you want time to prepare your answer? If so, the Court will grant you time and will grant you permission to file your answer and so take as long as you think is reasonably necessary to prepare your answer. I will follow your wishes about that.

Mr. SIMMONS: Your Honor, you know it is one thing for an attorney to prepare his case when he has his client sitting right at his elbow, and quite something else to prepare a case when your client is sitting in jail. Now, if your Honor has the idea here of committing Mr. Kasper to jail until such time as we feel we can go ahead with this, my feeling is a lot different.

The COURT: I think now that he will not be committed if he executes bond. He will be committed unless he executes bond today. He is now in the custody of the marshal under order of this Court, and will continue in custody until [110] this case is tried on the merits, unless he gives bond, which the Court will fix after hearing counsel for both sides.

Mr. SIMMONS: Well, your Honor, we will ask to proceed with the order of attachment hearing, too, at this time.

The COURT: All right.

By Mr. SIMMONS:

[111] The COURT: It is my understanding, Mr. Simmons, that you ask the Court at this time to hear both the

petition on contempt as well as the motion for continuance of this temporary injunction?

Mr. SIMMONS: That is right, your Honor, with the understanding on my part that I will give my brothers here any additional time they would wish.

By Mr. SIMMONS:

Q. Mr. Kasper, on the occasion when you were supposed to have addressed a large crowd of people in Clinton and you said to them in substance as follows: "Now, we can find out who our enemies are." Does that sound familiar to [112] you?

By the WITNESS:

A. Partially: When I returned out there after I had been given these papers and after I had glanced at the names there, I stated that, "These people named here"—and I named them, spoke them out—"are our enemies in this fight." Yes, sir.

CROSS EXAMINATION.

[115] Mr. SIMMONS: Your Honor, we should like to be able to see our client and talk——

[116] The COURT: Mr. Marshall, you are directed to let Mr. Simmons, Mr. Stansberry and Mr. Parker, at all reasonable hours, any of these attorneys, at a convenient place, to talk to their client. If they want to talk to him this afternoon, Mr. Marshall, you see that that is done, and provide comfortable quarters for Mr. Simmons and these attorneys to talk to their client. In the meantime, while Court is in recess, you arrange for them to meet at their convenience. I know they will be reasonable. They are entitled under the law to consult with their client.

Is there anything else?

Mr. SIMMONS: Nothing further, your Honor.

[117] IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION, AT KNOXVILLE

Civil Action No. 1555

JOHEATHER McSWAIN, *et al.*, PETITIONERS,

vs.

COUNTY BOARD OF EDUCATION OF ANDERSON COUNTY, TENNESSEE, *et al.*, RESPONDENTS

MOTION FOR PRELIMINARY INJUNCTION

MOTION TO SHOW CAUSE FOR CONTEMPT

Second Day of Hearing

August 31, 1956
9 o'clock a. m.

(Whereupon, at 9 o'clock a. m., the hearing was resumed and the following proceedings were had:)

[120] Q. You arrived in Clinton on Saturday afternoon; is that right?

A. Yes, sir.

Q. And Saturday afternoon and Sunday you had conferences with students at the Clinton High School and others you contacted there; is that correct?

A. With parents at their homes, first.

Q. Parents at their homes? Then you had a meeting [121] on the courthouse lawn on Sunday afternoon with a group of students?

A. No meeting, no, sir. There were some students and parents who congregated around there and I talked with them informally.

Q. Of course, you discussed the plans, as you stated yesterday; you had come here for a purpose and for a plan? Is that what you said yesterday?

A. Yes, sir.

Q. Who formulated this plan that you came here under?

A. This is a plan which you might say was formulated several years ago by a man named Bryant Bowles of the National Association for the Advancement of White People.

Q. That is the plan you came here under?

A. Not his plan specifically. I have had no contact with Mr. Bowles. I have never met him, but Mr. Wells has repeatedly testified that I have organized some kind of a strike in Delaware, which I did not. Mr. Bowles did. It was successful, and is still successful.

[122] Q. You did not? Mr. Kasper, you addressed a large gathering at the courthouse lawn on Tuesday at Clinton, didn't you?

A. Yes.

Q. What would you estimate the size of the crowd was?

A. About 1500 to 2,000 people.

Q. Fifteen hundred to 2,000?

A. Yes.

Q. Did you talk with some reporters there; do you remember having some conversation with reporters?

The WITNESS: Are you referring to the night or daytime Tuesday?

[123] Mr. LEWALLEN: I am speaking of the meeting at night.

A. Yes.

Q. On the 28th of this month?

A. I don't recall talking to any reporters Tuesday night, no, sir.

Q. I will ask you if some time during the day on the 28th of this month you were interviewed by a reporter somewhere in the vicinity of the courthouse at Clinton?

A. I was interviewed by many reporters.

Q. I will ask you if you made this statement to one of the reporters who interviewed you, or this in substance, that you were staying out here until the principal, D. J. Brittain and the school board resigned, if necessary?

A. I may have said that in part, in context with many, many other statements without which that statement is meaningless.

Q. Tell us what you did mean, then?

A. It would mean that the concept of law that I have been proposing to these people in Clinton is that the writing of law to prevent coercion, either by force or by fraud, this is a cardinal part, a principal part of common law, and the great jurist, English jurist, Blackstone, has written a great deal about it. I have repeatedly stated that the Supreme Court decision is a coercion by force and by [124] fraud, on May 17, 1954, in forcing integration and race mixing of the people of the southland.

Now, with regard to this statement here allegedly made about Mr. Brittain and the school board——

Mr. Lewallen: May I interrupt you just a moment?

Q. Did you or did you not make that statement?

A. I did not make that statement as a finished statement, not exactly that form, no, sir. It had an entirely different meaning, the way I used it.

Mr. Lewallen: All right. Go ahead.

Q. Anything further to say?

A. Yes, I do.

It would seem to me, and it has always seemed to me, that any public official, any man who is a part of the Government is nothing but a servant of the people; he is not their master. That would include the high school principal and the county school board.

A majority of the people at Clinton—I am convinced it is a vast majority—do not want to mix races in the public schools. I believe that there is abundant evidence for that.

I certainly will not accept the role of being the only one who believes it or that I have taught them this within the last five days. These people have believed this all of their lives, and their forefathers believed it, also, and their children may believe it, as well.

[125]

We are still counting on that point of Mr. Brittain's resignation. I don't think Mr. Brittain is a Christian, but I don't think that makes any difference. He looks Jewish to me, but that shouldn't have too much bearing on the school system.

Mr. LEWALLEN: Let me interrupt you just a moment.

Q. If Mr. Brittain had been Jewish, would that have affected your position?

A. No, sir, not in this case. I want to bring out that this is a Christian community, with law-abiding people, and they are a deeply religious people.

They go over there and ride herd on the people, they are harassing people; they are not serving the people representing them.

Q. In other words, Mr. Kasper, what you are saying is that the public officials of Anderson County——

A. Not all of them. The ones I have specific knowledge of——

Q. Mr. Brittain?

A. I believe in the face of this situation, Mr. Brittain came out there in front of the school and he said he would be a coward if he resigned, and the people said, "No, no, [126] no; you would be a hero if you would defend us."

Mr. LEWALLEN: Let me interrupt you just a moment.

Q. Did the people say that, or did you say that?

A. The people said it and I said it.

Q. And you said it?

A. Yes, sir.

Q. Did you say it first or did they say it first?

A. I don't recall.

Mr. LEWALLEN: All right.

Q. Go ahead.

A. And that if a situation has arisen which requires action, immediate action, and that the people themselves have stated the kind of relief they want, even if it is immediate and temporary relief which may have to be revised later by other kinds of process, but if any man in the face of that kind of demand of the people—and a peaceful demand it was, a considered demand it was—if any man will continue to hold his job and hold his position and ride herd on those people, the wild grass will some day grow over his dead body.

[128] Q. I will ask you, further, if you told a reporter out there after your trial in the justice's courthouse at Clinton that you were going to remain there and help these fellows on the picket line to keep on organizing and distributing legal literature. Did you make that statement?

A. I did.

Q. You made that; you remember that?

A. Yes, sir.

[129] Q. You do admit you addressed a large gathering there on Tuesday night at Clinton?

A. I do.

Q. You admit, further, you addressed a large gathering on the 29th, which was Wednesday night?

A. I do.

[135] Q. The question was, did you state out on the courthouse steps, announce to that large gathering, which you have estimated to be around 1500, that, "An injunction has been served on me."?

A. No, sir.

Q. You didn't do that? I will ask you, further, if you

didn't make this statement, or this in substance: "You can go ahead"—you announced to the crowd—"and continue your activities, but I may not be able to be with [136] you"?

A. I said, "If after tomorrow this injunction is issued" —and I saw every reason why an injunction would be issued—I therefore said that, "If an injunction is issued tomorrow at 1 o'clock by Judge Taylor, so far as I know, it doesn't enjoin against any of the rest of the people who are not named. There are only five of us who cannot be down at the schoolhouse with the rest of you." That was my statement.

Q. In other words, you told them on that night that there were "Only five of us that could not be down at the schoolhouse tomorrow."

Q. I will ask you if you didn't tell the crowd this or [137] this in substance: "I will not allow these children to be deprived of an education because Brittain refuses to push these niggers out of school"?

A. I may have said something quite similar to that, in context with many other statements, without which that would have no meaning.

Q. I will ask you if you didn't state this, or this in substance: "I will stay here until these niggers are out of Clinton High School"?

A. I may have said that.

Q. I will ask you if you didn't say this, or this in substance, following those statements: "The Federal Court can file every kind of an injunction and enjoin you, but as long as that school is there no injunction can force you to do something you don't want to do"?

A. I did not say that.

Q. You did not say that?

A. No.

Q. I will ask you if you didn't urge the group to join you in your council to fight "niggerism"?

A. Yes, I said that.

Q. You said that?

A. Yes, because that is an ism, you see. There are lots of wonderful colored folks around here, and all over this country, as a matter of fact. I never saw anything more sad or more tragic than on Wednesday afternoon [138] that colored boy was brought down the street between two policemen with all of the white children following him, and then shortly later another colored boy walked down there, that boy holding his head up and trying to be dignified. He was a colored boy. Nothing is more tragic than forcing these poor people to be the whipping boys, the scapegoats for a situation which originally has arisen from the corruption of the Supreme Court and a great many of our Federal officials who are largely pushed and pressured by the communist conspiracy in this country and how to it.

Q. Now, Mr. Kasper, you have been talking about the corruption of the Supreme Court—excuse me. Go ahead.

A. I might just finish on that, that the NAACP is positively a communist middle organization. I can prove that. Everybody who has looked into the NAACP knows it is a white-led communist organization. Arthur Springborn is the white president of it. John Clayton Powell is the Negro with six front citations, W. E. B. Dupard, communist citations, and Herbert Lehman supporting all kinds of communist fronts, all kinds of communist causes. He is a vice president of it. He is supposedly a white man, also. There is no question it is a communist organization, and that is what I call "niggerism". In fact, we in the Citizens Councils are against any kind of ism except [139] Americanism, constitutional government.

Q. So you are opposed, then, to any organization that does not agree with your organization; is that right?

A. No, sir.

Q. Mr. Kasper, let me ask you again, sir, if you didn't state to the crowd after the marshal had served on you or given you these papers, which you say you didn't look into or did not see, if you didn't state to your audience that, "It is far more important for you to be here to-

morrow, two blocks away, than it is to be over in the Federal Court"?

A. I did. I certainly did.

Q. I will ask you if you didn't make this statement, or this, in substance —

A. Until we knew whether the injunction had been issued.

Q. You did make that statement?

A. Until we knew that an injunction had not been issued. That was not an injunction. I was given.

Q. Well, did you know what it was?

A. No.

Q. Do you now know what it was?

A. To me it was an order to appear in court to show cause why an injunction should not be issued. That is what I thought it was. In fact, that is what one of those papers was.

[140] Q. I will ask you if you didn't make this statement to your audience, or this in substance: "The big shots will be little shots before this thing is over"?

A. I did.

Q. You made that statement?

A. Yes, sir.

Q. What were you referring to about that?

A. Well, we might tie that in with another statement about enemies out there, "Your enemies".

I have been accused here of advocating every kind of unlawfulness, disregarding the law, no respect for the law, and so on. I will tell you, sir, I am extremely impressed by law, and I like it, but what I think we need is a return to constitutional law, constitutional government, common law, and so on.

Now, the state's attorney there, Mr. Fischer, State Attorney General, who tried me in the trial justice's court in Clinton last Tuesday, between Sunday and Tuesday, the time I was arrested and the time I was tried, I had [141] eleven different requests sponsored by Mr. Fischer to reduce bail bond and the jail door would be open. I could leave Clinton County Jail any time I wanted to if I

would leave Anderson County and the state of Tennessee, break down and become a criminal and never be allowed back in the state of Tennessee.

Q. Now, just one question about that.

A. Yes, sir.

Q. In other words, you say Mr. Fischer asked you to become a criminal?

A. Yes, sir, I positively do.

I might also say that Mr. Fischer was derelict in his duty. He should be prosecuted for even suggesting such a thing, because that is a high and honorable office, the office of Attorney General, and any time a man is charged with the high crimes that I was, sedition and inciting to riot, they are very serious crimes, even as great as murder, almost. They are serious crimes against the state. It is the duty of the Attorney General to prosecute, not to open the jail door to anyone. That man must stay in jail until his case is tried and he is either convicted or set loose.

That is the law, and that is why in your question about little shots—the people know this. They are just sort of getting—the people themselves here in Tennessee, in Anderson County, some of the most independent indi-[142] viduals, free-spirited people and wonderful people that there are in this world. They have been suppressed. They are afraid to do anything. Wages are low, taxes are high. They are afraid that the little bit they have—that there will be reprisals taken and they can't protest, they can't resist. Votes are stolen around here. They can't even express themselves clearly in a ballot box.

Q. That is in Anderson County you are referring to?

A. Yes, sir.

The sheriff holds two jobs when there is a scarcity of jobs. He is a bus driver and a sheriff, when there are a lot of men out of work; bootleg whisky that is seized is resold to cab drivers and they make money on that.

There is a man over in the Clinton County Jail right now with 84 days in there. He was 84 days awaiting indictment by a grand jury, to see whether or not he should

be indicted. He had the money in his pocket to post bail bond. They wouldn't agree to bail. His sister died and they wouldn't make a phone call for him; his brother had a heart attack and they wouldn't make a call for him.

This sheriff, state's attorney, mayor, school principal, all of them, they will be little shots, because the people are waking up. The people will throw them out in the next [143] election year. There is no question about it.

This is an important reform movement. This is a profound movement right here. We are going back to constitutional government. We are destroying a communist conspiracy and all of the corrupt officials who have played their silent part in it by refusing to stand up for the people themselves.

Q. All of these officials you have named here, these corrupt officials, you say should not stay in office, should be thrown out?

A. No, sir. I specified Mr. Fischer.

Q. Mr. Fischer?

A. Yes, sir.

Q. The Court knows he is elected.

A. I will testify sheriff J. K. Owens, who is leaving office today, thank God.

Q. And Mayor Lewallen of Clinton?

A. No, sir. I don't know anything about Mayor Lewallen.

Q. J. B. Wells, editor of the Clinton Courier-News?

A. I don't believe Mr. Wells is responsible. I believe freedom of the press should always be maintained. It is a cardinal point of our Federal Constitution, one of the [144] greatnesses of our nation.

Q. I will ask you if you didn't——

A. You asked me a question about Mr. Wells. I am answering it.

Q. You can answer that yes or no.

A. It requires a little more elaboration.

Q. All right. Elaborate.

A. Freedom of the press involves not merely rights; it involves duty.

Q. Mr. Kasper, I didn't ask you anything about freedom of the press; I asked if Mr. Wells was one of these corrupt officials.

A. Well, as I say, I don't think Mr. Wells is as close to the community and the people of Anderson County and Clinton, specifically, as he should be, because he tends to side with the sort of top ruling clique there.

Q. Do you know, Mr. Kasper, that Mr. Wells is editor and publisher of a newspaper here——

A. That is what I am talking about.

Q. Do you know that that newspaper has been recognized as one of the leaders, not only in this state, but in the nation?

A. Well, they recognize the Pulitzer papers. The Pulitzer Prize goes to such rags as the St. Louis Post Dispatch and the Washington Post, which are communist papers. They are aiders and abettors in the communist [145] conspiracy—the New York Times——

Q. Is the Clinton Courier-News one of those papers?

A. Not that I know of. I haven't even looked at it. I don't even read it.

Q. I will ask you, Mr. Kasper, if you didn't get up on the courthouse steps and make a tirade in the presence of those people there against the Pittsburgh News and the Knoxville newspapers and other newspapers?

A. I certainly did.

Q. Let me ask you, do you know the approximate population of Anderson County?

A. No, sir, I do not.

Q. If I told you that according to the 1950 census it was approximately 60,000 people would you accept that?

A. I wouldn't accept it from you, but I would check it with some other people first.

Q. In other words, if you read it from the Census Bureau records that it was approximately 60,000, you would believe that, would you not?

A. Well, if I had the book here I would believe it.

Q. You say that the vast majority of the people of An-

[146] derson County have been waiting for leadership; is that right?

A. Yes, sir.

Q. To get these oppressive officials you have named here out of office?

A. They are waiting for a government of men with front names and hind names and addresses, representatives of a representative government.

Q. Mr. Kasper, you say they are waiting for a government of men. In other words, you believe in a government of men and not a government of law; is that right?

A. No, sir. I believe——

Mr. SIMMONS: I object to counsel testifying.

By Mr. LEWALLEN:

Q. Mr. Kasper, after the marshal had served these papers or had given these papers to you, as you say, I will ask you if you said this, or this in substance, to the crowd assembled there: "We will carry on the fight until we win, tomorrow night and every night until this thing is over."?

A. Yes, sir, I did.

Mr. SIMMONS: Is that all?

Mr. LEWALLEN: Yes.

Mr. SIMMONS: I have no further questions.

(Witness excused.)

[147] Mr. CRAWFORD: I would like to have the record show that I am United States Attorney and am appearing at this hearing on the contempt phase of it at the request of your Honor, in that petition which has been filed alleging that an order of this Court has been disobeyed.

The COURT: All right, sir.

FRANK QUARLES, called as a witness by and in behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. CRAWFORD:

Q. Please state your name.

A. Frank Quarles.

Q. Are you United States Marshal for the Eastern District of Tennessee?

A. I am.

Q. In that capacity, Mr. Quarles, were you handed a temporary restraining order and copy of a petition on which that restraining order was based for service on Wednesday, August 29th of this year?

A. I was.

[148] Q. After receiving that order, what did you do?

A. I went to Clinton, Tennessee.

Q. After arriving there, what did you do?

A. Well, when we first arrived I went up to the courthouse to look for Mr. Kasper, and he hadn't arrived.

Q. That is the defendant here, John Kasper?

A. Yes, sir.

I went over to the drug store and got a Coca Cola and waited around until Mr. Kasper came, and then I went over to the courthouse where he was standing on the front of the courthouse and tapped him on the shoulder and told him I would like to see him a minute.

Q. State whether or not he was speaking to the crowd at that time?

The WITNESS: Sir?

Q. Was he speaking to the crowd assembled there?

A. Yes, sir, he was.

Q. Will you tell what you did?

A. I tapped him on the shoulder and told him I would like to see him a minute, and opened the courthouse door

and we walked inside the courthouse. I served the temporary restraining order on him.

Q. In executing that, serving that temporary restraining order, I will ask you if this is a copy of the one that you [149] served?

A. Yes, sir, it is.

Q. Now, in serving or executing that restraining order, what did you do; how did you do it?

A. I read the temporary restraining order, read it over, then I backed up to where it said 1 o'clock p. m. on Thursday in the courthouse in Knoxville.

Q. I believe the restraining order consists of four sheets, does it not, three or four sheets?

A. Yes, sir.

Q. And you state to the Court that you read that word for word to John Kasper?

A. Yes, sir, I did, and I backed up to where it set the date and read that line over to him.

I said, "Now, you understand you are to be over at Knoxville at 1 o'clock?"

He said, "Yes, sir."

I handed him this temporary order, a copy of it, and then went on to read the petition. I read down six or eight lines through the names of the ones that was asking for the petition, and he reached up and got hold of the petition, and he says, "If you don't care, I will read it. I can understand it better."

Q. Did you turn it over to him?

A. I did.

[150] Q. What did he do then?

A. Well, he stood there and read it for quite a bit and turned and walked out the front door of the courthouse and I went out the west door and come around the front of the building. About the time I got to the front——

Q. About how long did he take after he reached for the paper, the petition?

The Witness: About how long what?

Q. About how long was he looking at it before he went out the door?

A. Well, we was in there ten—somewhere between ten and fifteen minutes in the courthouse.

Q. He went out to the crowd again?

A. He went back out to the front where he was addressing the crowd when I walked up.

I went out at the west door and come back around to the front right up next to the building, pretty close to where he was standing.

Q. Will you tell what he said to the crowd?

A. He held up this paper, and he said, "The Marshal served a temporary injunction on me and I have to appear over at Knoxville at the Federal Court Building tomorrow at 1 o'clock for a hearing." And he said, "You all are cordially invited to come over and we will demonstrate." He said, "The Supreme Court ruling is not the law." He [151] said, "The will and the wishes of the people is law." He said, "I will have to go over there tomorrow but," he said, "I will be with you folks until every n-i-g-g-e-r is run out of the Clinton school."

Q. Who was present with you while you were executing the restraining order?

The WITNESS: Sir?

Q. Who was with you when you were executing this restraining order, when you served the restraining order?

Mr. SIMMONS: If anyone.

By the WITNESS:

A. Mr. Farmer, Deputy Marshal, and Mr. William Petree, Deputy Marshal, and Mr. Roy Whaley, Chief Deputy Marshal, and a policeman by the name of Ridenour.

Q. All of them were present while you were serving the restraining order?

A. They were.

Mr. CRAWFORD: Cross-examine.

CROSS-EXAMINATION.

By Mr. SIMMONS:

Q. Mr. Quarles, did you read to Mr. Kasper the petition first or the temporary restraining order?

A. I read the restraining order.

Q. Did you read the restraining order completely [152] through?

A. Yes, sir.

Q. You say you did?

A. Yes, sir.

Q. Are you positive about that?

The WITNESS: Sir?

Q. Are you positive about that?

A. Yes, sir.

Q. Was it the restraining order that after you got through he said, "Let me read it. I can read it better and understand it better"?

A. No: it was the petition that he asked me to read—that he asked me to let him read.

Q. Are you positive about that?

A. Yes, sir.

Q. The reason I am asking that: Mr. Quarles, Mr. Kasper says you did not read it to him.

A. Yes, sir. I understand that.

Q. I am asking you if you are positive you did read it to him?

A. I read the temporary restraining order to Mr. Kasper.

Q. Did you read it from start to finish?

A. Yes, sir.

Q. You did?

[153] A. I did.

Q. There is no doubt in your mind about that?

A. No, sir.

Q. After you read him that order, after you say you read the temporary restraining order, you proceeded then to read the petition?

A. Yes, sir. When I read the restraining order, I handed him a copy of it, and then started to read the petition, and I read down to about the middle of the first page and he got hold of it there and said, "If you don't care, let me read it." He said, "I can understand it better."

Well, I let him have the petition. I didn't read all of the petition. I read about middleways down the first line—the first page, and he asked for it, took hold of it, and I let him have it.

Q. Were you under any instructions on that day as to what disposition to make of those two papers?

The WITNESS: Sir?

Q. What instructions did you have with respect to serving these two papers we are talking about, the petition for the restraining order and the restraining order; what did you intend to do with those two papers on that day when you found Kasper?

A. I intended to serve them on him.

Q. Hand them to him?

[154] A. No, sir. I intended to serve them on him.

Q. Well, what do you call "serving"?

A. I call reading them serving them.

Q. Reading both of them?

A. I didn't read both of them.

Q. Why didn't you read both of them?

A. Well, he asked to read the petition himself.

Q. That was agreeable with you?

A. Yes. He wanted to read it. I let him have it.

Q. If Mr. Kasper says you did not read the temporary restraining order to him, then he is mistaken about that; is that your testimony?

Mr. CRAWFORD: Well, that is argumentative. We object to it, if the Court please.

The COURT: Sustained.

By Mr. Simmons:

Q. As you left the courthouse, you came around after you had served the papers, you came around, came out the west door of the courthouse?

By the Witness:

A. Yes, sir.

Q. Then you came back to the audience? is that what you said?

A. I came right back around to the front, about the ways [155] I went up.

Q. You heard Kasper speaking?

A. I heard him say that. I stood there and listened to him quite a while.

Q. Had you heard Kasper speak on other occasions?

A. No, sir. That was the first time I had ever seen him.

Q. Did you intend when you went there to hear him speak did you intend just to serve the papers?

A. No. I went to serve the papers. That was my purpose.

Q. Of course, you have discussed your testimony with these attorneys here, have you not?

A. No, sir. I told Mr. Lewallen—I believe it is Mr. Lewallen. The man in the middle there—this morning out there that I understood that Mr. Kasper swore yesterday that I did not read the papers to him, and told him that I sure did read the restraining order. They didn't ask me for it; I went to them and told them.

Q. Coming back to my other question, Mr. Quarles did you regard it as part of your duty to read the restraining order?

The Witness: How was that?

Q Did you regard it as your duty when you were going to serve Kasper with this temporary restraining order, did [156] you regard it as your duty to read it to him or just hand it to him?

A. Yes, sir, I did.

Q. Read it to him?

A. Yes, sir.

Q. Where did you get your instructions?

A. I have been an officer for about 18 years, Mister.

Q. That is part of your duties?

A. I always made it a policy to read most important papers to whoever I served them on.

Q. Is there any doubt in your mind, Mr. Marshal, as to whether or not you read the petition or the restrain order to Kasper on that occasion?

A. I read the restraining order. I started to read the petition and Mr. Kasper asked me for it.

Q. Did he ask you any questions about the legal meaning of the restraining order, what he was to do or not do?

A. No, he did not.

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[157] Joe Farmer, called as a witness by and on behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. CRAWFORD:

Q. Your name is Joe Farmer?

A. Yes, sir.

Mr. SIMMONS: I understood there was supposed to be a rule on witnesses.

Mr. CRAWFORD: He is an officer of this Court.

The COURT: He is an officer of this Court.

Mr. CRAWFORD: Assigned to this Court.

[158] The COURT: Yes, sir. A Deputy United States Marshal, Mr. Simmons.

By Mr. CRAWFORD:

Q. Are you a Deputy United States Marshal for the Eastern District of Tennessee?

By the WITNESS:

A. Yes, sir.

Q. Mr. Farmer, did you accompany your chief, Frank Quarles, and others to Clinton on Wednesday night of this week to serve a temporary restraining order on John Kasper and others?

A. Yes, sir.

Q. Were you or not present at the time of the service of this order?

A. I was.

Q. Where did you officers find Mr. Kasper?

A. We first seen him from across the street. He was pointed out to us by a city officer and also a county officer. He was pointed out as he walked up to the courthouse steps.

We started across the street and he opened the service with a prayer, and we waited until the service of the prayer was over. We proceeded across the street to the left of the building, to the west, and on up to the side of the building and all went up on the steps behind Mr. [159] Kasper.

Mr. Quarles tapped him on the shoulder and asked if he could see him just a minute. The County Court Clerk opened the courthouse door and told us that it was light inside and we could read the papers in there. We, six of us all together, Mr. Quarles, Mr. Whaley, Chief Deputy; Mr. Petree, myself and Mr. Clyde Ridenour and the city police officer and I believe a county officer—I don't know his name—all stepped inside the courthouse.

Q. Did Mr. Quarles have the papers?

A. He had all of the papers, yes, sir.

Q. What did he do then?

A. He proceeded to read the restraining order to Mr. Kasper.

Q. Then what happened?

A. He handed Mr. Kasper a copy of the restraining order.

He proceeded to start to read the petition. He read possibly four or six or maybe more lines down the page, the

first page. Mr. Kasper said, "If you don't mind, just let me have it. I can understand it better if I read it myself." Mr. Quarles proceeded to let him have the petition.

Q. What did Mr. Kasper do then?

A. He took the petition, read it, stuffed the papers in [160] his pocket and walked out the front door.

Q. Did you follow him, go outside?

A. No, sir. We all went out the side door, all six of us went out the side door on the west side.

Q. Did you hear him address the crowd?

A. I did.

Q. Will you tell the Court what he said—what you can remember he said—if anything, concerning the papers that had been served on him?

A. Well, the crowd of us, Mr. Quarles and the rest of us officers, just walked to the edge of the building after we got outside there, walked to the edge of the building back up towards the entrance to the front of the courthouse—not the same entrance we went in—and all of us walked up there and stood there for possibly ten or fifteen minutes, and then we stepped back a little farther.

He announced to the crowd that he had been served by the marshal with an injunction to be in the Federal Court at 2 o'clock the next day, which would have been yesterday, and that the order said for him to be over here and he would be over here, and he asked that all who would want to come, to come over here with him, and he said that he was going to be there from now on until every nigger was run out of the Clinton High School.

Q. Did he or not make any statements in your presence [161] as to who the injunction applied to?

A. He said it applied to him, outside of—he named off the other five persons that were named in the petition and the restraining order.

Q. Well, did he make any statement as to the effect of the injunction?

A. He said, "This doesn't mean anything." He said, "It is the will of the people, and we are going to win."

Mr. CRAWFORD: All right. Cross-examine.

CROSS-EXAMINATION.

By Mr. SIMMONS:

Q. Since this occasion, I suppose you and Mr. Quarles—he is your superior, is he?

A. Yes, sir, he is.

Q. You have discussed the situation between you?

A. Only as to what he said.

Q. Do you agree with everything that he said?

The WITNESS: That Mr. Quarles said?

Mr. SIMMONS: Yes.

A. Yes, sir.

Q. Do you deviate in any way with regard to whether or not he read the restraining order or petition?

A. He read the restraining order.

[162] Q. Read it from start to finish?

A. He did.

Q. Did he read the petition from start to finish?

A. He did not.

Q. He permitted Mrs. Kasper to read that in his own way?

A. Yes, sir, after Mr. Kasper had asked to let him have the petition.

Q. Are you positive, also, that he read the order to Mr. Kasper; not the petition.

A. He read the restraining order, yes, sir.

Mr. SIMMONS: No further questions.

Mr. CRAWFORD: That is all.

(Witness excused.)

JAMES LOGGANS, called as a witness by and in behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. CRAWFORD:

Q. Please state your name to the Court.

A. James Loggans.

[163] Q. And your age?

A. Thirty-six.

Q. Where do you live, Mr. Loggans?

A. I live in Knox County, on Murray Road.

Q. What is your occupation?

A. News editor of the Clinton Courier-News.

Q. You live in Knox County and work in Anderson County?

A. That is right.

Q. Mr. Loggans, I take it that you have attended some of the meetings in Clinton since Sunday?

A. I have.

Q. Were you present Wednesday night of this week—Wednesday evening or Wednesday night of this week——

A. I was.

Q. (Continuing) —on the courthouse grounds in Clinton?

A. Yes, sir, I was.

Q. Do you know John Kasper on sight by this time?

A. Yes, sir, I do.

Q. Was he there Wednesday night of this week?

A. He was.

Q. What did he do?

A. He was addressing the audience from the courthouse [164] steps.

By Mr. CRAWFORD:

Q. I will ask you if you were present in the crowd on the courthouse grounds when Mr. Kasper stepped inside of the courthouse building with the United States Marshal?

Mr. SIMMONS: He said, your Honor, he understood. I think that disqualifies him.

The COURT: Yes, not what he understood.

Mr. CRAWFORD: He says he saw that, if the Court please.

The COURT: Just tell me, Mr. Loggans, what you saw and heard, without what you understood.

Mr. CRAWFORD: That is the way I understood it.

By Mr. CRAWFORD:

Q. Did you or not see Mr. Kasper leave his station [165] speaking to these people and go inside the courthouse with the United States Marshal?

By the WITNESS:

A. I did.

Q. You saw that?

A. Yes, sir.

Q. Were you present when he returned and saw him return to the crowd?

A. I was there and saw him.

Q. How long did you stay there?

A. I stayed there until he finished his speech, then I interviewed quite a few people in the crowd adjacent to the courthouse there. I remained in Clinton until possibly 11:30 that night.

Mr. CRAWFORD: Mr. Loggans, it is somewhat difficult, because of the ruling of the Court, for me to direct your attention to specific things which Mr. Kasper said. We don't want you to go into everything he said.

Q. Did you take any notes on his address?

A. Yes, sir, I did.

Q. I will ask you if he made any reference to an injunction or papers having been served on him by the United States Marshal?

The WITNESS: If I may, I would like to refer to my notes [166] I took that night, if that is permissible.

Mr. CRAWFORD: You certainly may.

The COURT: You may.

The WITNESS: These notes are not chronological or any special sequence. It is notes I took during the evening.

Mr. SIMMONS: Your Honor, may I inquire as to when these notes were made?

The COURT: You may, sir.

The WITNESS: They were made during the talk at the courthouse on Wednesday evening.

By Mr. CRAWFORD:

Q. Go ahead.

By the WITNESS:

A. Mr. Kasper came out of the front door of the courthouse and told the crowd assembled that he had been served with an injunction. He said he would have more to say about this later in the evening.

Then he commenced to speak. He said that the people could go ahead and continue their activities here as they had Monday, Tuesday, and Wednesday, if these persons are not specifically named in the order.

He later said, "We have almost carried this fight to victory, but let's keep on until we win it. You have seen [167] how it is done. You know how to do it. Now, keep on doing it."

He further said, "The Federal Court can file every kind of injunction and be enjoined, but as long as that school is there", and so forth. Some other remarks in here about different things.

Then he continued on, "But no injunction can force you to do something you do not want to do."

Q. Do you have other notes?

A. Yes, sir, I do.

Q. What else was said?

A. He made this statement: "I am not going to allow children to be deprived of an education because Mr. Brittain refuses to push those niggers out."

Then he made some comments of which I do not have direct quotes, or anything of that nature, about the news-

papers, the Knoxville newspapers, and directly Mr. Wells and the Clinton Courier-News. He said that we can read other newspapers. He indicated that the truth was not being printed in these newspapers. He said, "We can read other newspapers and get the truth."

He says, "I will stay here until those niggers are out of Clinton High School."

Q. Are out of what?

A. Out of Clinton High School.

[168] Then he urged the crowd to join his organization, which he called the Seaboard White Citizens Council, and he talked at some length on this, urging people to join the organization.

Q. Was there any attempt on his part to organize a council that night?

A. No, none that I saw.

Q. And collections taken?

A. Not that I saw that night.

Q. Do you have any further remarks regarding the power of the press?

Mr. Simmons: I object to the leading question. It is highly improper.

The Court: No. It is proper. You may answer that question, if you can.

By the Witness:

A. He said that the people, the power is with the people, and he dwelt at some length and remarked that he had heard people, leaders in the community and others, say that they must obey the law. He said that the law was with the people; not the court.

Q. Read that louder, that last statement. Read that a little louder.

A. I didn't quote it. That is not a direct quotation. Those are notes that I took.

[169] And he criticized—he stated that the leaders in the community and others, said they were obeying the law. His view was that the people were superior to this law, that the Court did not have any superior power over the people.

Q. Do you have any other assertions along that line?

A. Well, I have among my notes here some things.

He said he would get inexpensive copies of the United States Constitution and give to the school children.

Mr. Simmons: I don't hear him.

The Court: Mr. Loggans, talk a little louder, please.

The Witness: He said, "I will get inexpensive copies of the United States Constitution to give to all school children."

He said, "We are not going to be pushed around here, because we know what our rights are." And he talked at some length about, "We don't have to work in salt mines. We can assemble," and so on.

By Mr. Crawford:

Q. Mr. Loggans, were these statements, all of them, made after or some of them made before service of the restraining order, the ones you have given?

[170] A. The ones I have made here, read here, were given after the restraining order.

Q. They were made after he stated he was served with the injunction?

A. Yes, sir.

Mr. Crawford: That is all, Mr. Loggans.

Cross-examination.

[171] By Mr. Simmons:

Q. That is the newspaper down there at Clinton; is that right?

By the Witness:

A. Yes.

Q. You are working for the newspaper there in Clinton?

A. That is correct.

Q. Do you have your notes there on this speech, that you made on that occasion?

A. I do.

Q. How do you identify from your notes what notes you made before the papers were delivered as contrasted with after the papers were delivered?

A. My practice is usually to—as you know, this is a weekly newspaper. I write stories all through the week and edit those stories. My practice has been to keep all of the notes together of any story that I may be covering, and this is the notes that I took during the speech, which I keep in my notebook to write the story of that night's activities.

Q. Have you put those in affidavit form?

A. Yes, sir, I have.

Q. At whose request?

A. At the request of Mr. Lewallen.

[172] Q. When did you make that affidavit?

A. Yesterday, I believe, at about noon.

Q. How do you establish that you know there was a restraining order served on Kasper; how do you know that?

Mr. Crawford: He has not said that, if the Court please. He didn't testify that he knew.

Mr. Simmons: I would like to know what he did say, then.

The Witness: He announced to the audience from the courthouse steps that, in his words, an injunction had been served. That is what I based my story on.

By Mr. Simmons:

Q. You have heard a lot of Kasper's speeches, have you?

A. I heard the one Tuesday night and the one Wednesday night.

Q. In the one Wednesday night, that is when the papers were served on him?

A. One on each evening.

Q. Was it Tuesday or Wednesday night the papers were served?

A. Wednesday.

Q. So, your notes you testified from were taken after [173] the papers were served on Wednesday night; is that correct?

A. That is correct.

Q. What was his language there with respect to the injunction, that it could not stop the people? You have testified he said something to that effect.

A. This is a copy of that I copied that evening: "The Federal Court can file every kind of injunction and enjoin you, but as long as that school is there"—and so forth. There was a section there that I did not take down. "No injunction can force you to do something you don't want to do."

Q. What meaning did that convey to you from his remarks, bearing in mind the context; what meaning did it convey to you?

A. It conveyed to me the—this is the opinion that I gathered, my own personal opinion—that he was informing these people that they did not have to abide by any court injunction is the words he used.

Q. No court injunction had been issued against those people is what he told them, or what did he tell them?

A. He read the names of the persons who were named in this injunction.

Q. He didn't tell the people that he, himself, was not bound by this restraining order, did he?

[174] A. If he did, I do not remember it.

Q. So far as the text of his remarks lay, he did not at any time indicate his own self to be above an order of this Court; did he?

A. I don't know about *about* being above this Court.

Q. Not being amenable to an order of this Court. He didn't indicate that in his talk, did he?

A. He said—I will quote further from my notes, if I may.

He said, "I personally may not be able to participate in any of these activities."

This was following the remark in which he said the people whose names were not specifically named could go ahead with their activities as they had on Monday and Tuesday.

Then he said, "I personally may not participate in any of these activities, but I will remain here."

Q. Meaning where?

A. I assumed he meant in Clinton.

Q. You have never seen any collections made there at any time, have you?

The WITNESS: On which occasion?

Q. In Clinton at the time you were there at these gatherings.

[175] A. Yes, I did.

Q. When was that?

A. On Tuesday afternoon.

Q. Who made that collection?

A. I don't know as there was an organized collection. I saw people handing money to Mr. Kasper.

Q. You don't know what that was for; it was not a membership drive, or anything like that?

A. I have no knowledge of that.

Q. You have never seen membership applications distributed, have you?

A. I do not believe so.

Q. Now, of your own personal knowledge, Mr. Loggans, you don't know whether the marshal read—what papers the marshal read to Mr. Kasper and what he did not read?

A. I do not.

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[176] FREDERICK JOHN KASPER, one of the respondents herein, having been previously sworn, was recalled and was examined and testified further in rebuttal, as follows:

REDIRECT EXAMINATION.

[181] The COURT: I will hear you.

The WITNESS: The views I have stated to the people of Clinton is that the Fifth Amendment to the Federal Constitution declares that there is a compact of the several states and of the people, and that the Federal Constitution cannot be changed without the consent of the people, you

may say, through their respective states, and the process for amendment of the Federal Constitution is by having three-fourths—or was it two-thirds—of the state legislatures voting to change the Constitution, or the people themselves, by referendum voting to change the Constitution.

My views have been and are now that the Supreme Court decision of May 17, 1954, was a reversal of all previous legal opinions, the very best legal opinions, for many years.

It also was based primarily upon the writings of a Swedish speciologist by the name of Gunnar Myerdahl, who wrote a book called "The American Dilemma," allegedly a discussion and analysis of the American racial question. This man admittedly had been in this country only five days, and he called our American Constitution merely a plot against the common people. He has never visited the South.

[182] The sources used by that Court for its decision, some 11 or 12 different writers, sociologists, psychologists, and wire-haired intellectual——

Mr. Crawford: If the Court please, I want to enter an objection to this. This is not responsive to Mr. Simmons' question.

The Witness: Yes, it is.

The Court: I don't want a long dissertation about the philosophy back of the decision of the Supreme Court.

That is not the question. The question is whether you have willfully violated the order of this Court. I don't care about your views about that decision. That is the law of the land, and this Court is required to follow the law of the land, as well as citizens who live in this country, and the law of the land is going to be followed by this Court.

The Witness: Yes, sir.

The Court: I don't care about your views about this.

The Witness: Well, sir, just with regard to the fact that the Supreme Court judges, as yourself for instance, are appointed by the President and confirmed by the Senate of the United States for a lifetime. There is no way that the people can redress the decision of those men

[183] except through impeachment, which is very seldom done and very difficult to accomplish, if the decisions seem to conflict with the vast majority of the will of the people in our representative process.

The people of Tennessee and other states have never been given a referendum on this entire issue of whether they wanted to integrate in their public schools, and the contention is—and I know it is shared by former Supreme Court Justice James Byrne, of South Carolina, and it is shared by Senator Eastman of Mississippi, it is shared by all of the signers of the southern manifesto.

Mr. Crawford: If the Court please, I want to renew my objection to this.

The Court: The objection is sustained. Don't go into this matter any further. That is the direction of the Court.

The Witness: Yes, sir.

By Mr. Simmons:

Q. Mr. Kasper, I will restate my question and ask you to confine your answer to the question, please.

By the Witness:

A. Yes, sir.

Q. While you have been in Clinton, Tennessee, have you [184] at any time stated to those people that you were above the law?

A. No, sir.

Mr. Simmons: That is all.

Mr. Crawford: No questions.

(Witness excused.)

The Court: Anything further from either side?

Mr. Simmons: That is all from our side, if the Court please.

The Court: Anything further from your side?

Mr. Crawford: No, your Honor.

The Court: How much time do you want to argue?

(Counsel for the respective parties thereupon addressed oral arguments to the Court, following which the Court delivered his decision from the bench as follows:)

[199] Thursday, September 6, 1956.

(Thereupon, at 1:00 o'clock p. m., the proceedings in this cause were resumed as follows:)

[200] Mr. LEWALLEN: If your Honor please, we would like to announce to the Court that by agreement of counsel, the testimony heard heretofore on the 30th is to be treated as part of the record. I will try to refrain from repeating.

Mr. SIMMONS: That is a correct statement, if the Court please.

The COURT: All right, sir.

LEO W. GRANT, JR., a witness in behalf of the petitioners, having been previously sworn, resumed the stand and was examined and testified further as follows:

REDIRECT EXAMINATION.

By Mr. LEWALLEN:

Q. You are Leo W. Grant, Jr., of Oak Ridge, Tennessee; is that correct?

[201] A. I am.

Q. You are an attorney at law?

A. Yes, sir.

Q. A member of the Tennessee bar?

A. Yes, sir.

Q. Mr. Grant, I believe you previously testified in this matter on the 30th day of August here before this Court; is that correct?

A. I did.

Q. In your own words, will you now tell the Court what the situation is in Anderson County and around the high school at Clinton; what you have observed when you were there since the granting of the preliminary injunction.

The WITNESS: Chronologically, you mean?

Mr. LEWALLEN: Yes, if you will.

A. Friday afternoon, the 30th or 31st, I returned from Federal Court in company with yourself and Mr. Fischer and Mr. Davis.

Clinton at that time was filled with many moving, milling people, just talking. Just a typical Friday night paynight crowd.

I got in my car and drove through town. Everything looked peaceful. I went to a dance Friday night, anticipating no trouble whatever. I was dumbfounded when I got the first radio reports——

[202] Mr. SIMMONS: We object to the "radio reports".

By Mr. LEWALLEN:

Q. Just tell what you personally heard and saw, Mr. Grant, please, sir.

By the WITNESS:

A. I received a telephone call from yourself that your father's house was being threatened by a mob.

Q. As a result of that, did you go back to Clinton?

A. Yes, I did. It was early morning hours when I arrived. Most of the people on the street at this time were just teenagers looking for some excitement. There was no insurrection in progress.

Q. You don't know what had transpired prior to this time?

A. No, I don't.

However, the city officials seemed to be very disturbed. Everyone seemed to be in a high state of excitement.

Mr. SIMMONS: I will object to opinions on what it seemed like to the witness.

By Mr. LEWALLEN:

Q. Did you talk with some of the city officials, Mr. Grant?

[203] By the WITNESS:

A. I did.

Q. What did you find there; what did you see?

A. Fear.

Q. What hour of the night was this?

A. Early morning hours. I couldn't be exact.

Q. Was it after midnight?

A. Oh, yes, after midnight.

Q. Now, on Saturday, during the daylight hours, were you in Clinton?

A. Yes, I was.

Q. What was the situation on Saturday in Clinton in and around the high school there?

A. There was agitation around the courthouse. The school was empty. There was no activity there. There was no organized agitation; merely large numbers of people moving up and down the streets. Traffic was unusually heavy. The atmosphere was tense.

Q. Later in the afternoon or early evening, what was the situation you found existing in and around Clinton?

A. Well, in compliance with a resolution of the city council, I was sworn in as a special policeman of the city, serving without pay. I attended a meeting with a group of other citizens who were also serving as city policemen for the maintenance of law and order, under the assistant chief of police, Wilson.

[204] We were held—I say "We". This group of city policemen and the regular city policemen held an organization meeting.

Q. About what time of day was this?

A. We intended to meet at 5. We actually didn't meet until 5:30. The actual meeting didn't get under way until about a quarter of six, due to the fact that we did not have certain police equipment we had been supposed to get. It was necessary to run around town and collect it.

About a quarter of six, we held a meeting with the city policemen, explained and outlined their duties.

By this time, a big crowd around the courthouse had grown larger. One loud-speaker car was parked in the

center of the square. I don't mean parked by a parking meter.

At any rate, a meeting was held. I took charge of the auxiliaries, explained that our problem was one of preventing riot rather than suppressing a riot. The technique used would be the familiar police one of moving them along, prevent congregating.

Q. Was it necessary to take at least preventive measures there?

A. I felt it was, yes.

Five men were posted at the mayor's house to prevent a recurrence of Friday night's adventure, and other details [205] were posted through the downtown district, and one of the details was posted at a critical intersection. The main body of possibly—not "possibly", Twenty-seven men—were taken to the courthouse. We were ununiformed, so that three to four men were broken down in command of a uniformed officer.

Q. Was it necessary to arm these special policemen, Mr. Grant?

A. In my opinion it was, yes, sir.

Q. Were they armed?

A. Yes, they were.

Q. All right. Go ahead.

A. The problem we faced was this: we could have at any time Saturday night dispersed the mob. We had the capability, but to have dispersed those people would have let 3,000 vandals roam at will, practically, through the city, and our tactic——

Q. Is that what you estimate the size of the crowd there on that occasion?

A. Yes.

I never had what you would call a vantage point. I moved through the courthouse square and the city jail and back to the school, moved through the mob continually—I would say "crowd" at this venture; not a mob.

I talked to many of them. Their threats were mostly [206] verbal. One or two people that refused to move along were arrested. They resisted arrest violently. They

were arrested for a breach of the peace and resisted arrest, the individual officers taking the warrants out. I think it was necessary to arrest four people.

About 8:30 a crowd began to congregate on Linden Street. The individual teams of officers, at my direction, attempted to move them on, attempted to get them cut in half, keep them circulating. They refused to move on, by just simply standing pat. There was never any overt act of resistance; they simply stood fast.

Well, at this stage, some of the teenagers in the crowd started screaming, "Nigger lovers". "Kill them", things like that. They were just words. They were not under any attack, or anything.

So I formed a skirmish line, putting the left flank on the courthouse and the right flank around the courthouse wall, instructed the right officers to move forward slowly; don't run or charge; just move slowly forward. It was my hope that the crowd would move on. However, when we reached the crowd, an unidentified man tore off his tie, threw his coat on the ground, and started screaming——

Q. What did he say, Mr. Grant?

A. "Christians, kill them. Kill them."

Q. As a result of the outburst on the part of this unidentified individual in the crowd, what took place? [207]

A. The crowd advanced on us. We got to within about a foot of each other, and at this point the absence of police equipment became a little bit disastrous. My men didn't have any night sticks; they had a family shotgun, that type of weapon. You can't grapple with a crowd of that size, because the weight and momentum of the crowd will push your men over. You must keep them at a distance. That is the purpose of a night stick. Had we had the sticks, I think we could have moved them on, but when my men——

Q. As a result of that absence of equipment, what took place?

A. Well, my men started grappling with individuals, and it looked like the skirmish line was going to become overcome, so I shouted as loud as I could two times, ordering

them to disperse. I don't believe they heard me, they were screaming so loud.

They were screaming at this point, "Get their guns", and it looked like they had the capability of doing that, so I took a non-explosive tear gas grenade, pressurized grenade, and rolled it at their feet, let that grenade go off, and ordered my men to retreat slowly. We walked backwards. We didn't run, although——

Q. Was it necessary to use more than one gas grenade? [208] A. Yes. They charged around the flanks of us. This time they charged very vigorously at two points, and I put a grenade at the head of each point, again non-explosive, rolled it under their feet, didn't even throw it through the air. I was afraid of hitting one of them in the head. They stopped at that point, and they surged around and came up the center. I used two more grenades at that juncture. I had six.

My last grenade I gave to a police officer, Clyde Ridenour and instructed him that it was a jumper type. It was explosive and dangerous. He was to use it in the event of a charge.

I then rallied some of our men and got the older, more excitable ones to the rear, brought my stronger ones to the front, explained that on this last charge we wouldn't wait to be attacked; we would charge them, and that if they did not disperse, if the attack continued, that I would fire in the air. They understood that my discharge of a weapon in the air was not a signal for any firing, that I would fire in the air.

Q. These measures you are telling the Court about, those measures were brought about by what necessity; was this a mob?

A. Well, at this time it was a mob. It had amateur standing. It was a spontaneous type of thing, had no di- [209] rection or intelligence. There was no regular leader; it was simply spontaneous, merely a spontaneous mob. They had no focal point. As I say, at any time Saturday night we had the capabilities of dispersing those people, but had we scattered them all over town, I think

we would have done the town a disservice. Our purpose was to keep them with us.

Q. Tell his Honor, Mr. Grant, whether this was a continuation of those matters that have heretofore been testified to before this Court growing out of the integration of the Anderson County schools.

A. Oh, yes. Most of the rioters—we call them that. Most of the rioters spoke to me of their experiences on Thursday and Friday night.

In fact, while we were keeping the crowd circulating, keeping them moving, several of the 17 and 18-year olds, the T-shirt crowd, came up to me and in a half joking fashion complained that by keeping them moving I was preventing them from having any fun like they did Friday night. One or two of them said, "It looks like there will be no fun turning cars over tonight." We didn't arrest them, or anything.

Q. Had there been cars damaged of tourists stopping in town there on previous occasions?

A. I don't know, personally.

Mr. Simmons: I object, your Honor, unless they fix the date.

[210] By Mr. Lewallen:

Q. You don't know?

By the Witness:

A. No.

At any rate, this crowd identified themselves to me as the same people as Friday night. They made the statement, "We took over the town Friday night. We are going to wreck it." That type of thing. However, our people were interesting enough to them that they left the town alone.

Q. Was it necessary, Mr. Grant, for the Governor of the State, or the responsible authorities, to send in additional help there on that night?

A. The Highway Patrol arrived about the time the weapons were being cocked to fire into the air.

Q. Do you know to what approximate strength it was necessary to bring in the Tennessee Highway Patrol?

A. I counted 39 cars.

Q. You don't know how many men?

A. No.

One skirmish line formed—you see, my men were without uniforms and were carrying weapons. I was greatly concerned that the Highway Patrol coming into town and seeing armed men might assume we were part of this crowd, and place us under fire.

Therefore, the crowd was instructed when they heard [211] the sirens they would fall back on the courthouse steps in two ranks. The uniformed officers were to move to the front immediately, all muzzles were to be lowered, and we were to present as peaceful an appearance as the crowd would let us.

This was executed. I immediately reported to Captain Burdette——

Q. Is he the chief of the Highway Patrol?

A. Yes, he was the chief, but the task force commander, or troop commander, or whatever they referred to him as, was Captain O'Rearden.

I told Captain O'Rearden I had approximately 47 men under arms in the town, and I told him their locations. I said that I was immediately recalling them to the city jail. I didn't want any of my people shot as armed rioters.

I took them back to the jail. There was a hurry-up call from the Patrol. They said they needed some help, so I moved my people out of the city jail and into the courthouse by a side door.

Q. Why did you move them into the courthouse, Mr. Grant?

A. The order on which I moved them in there was based on the fact that the courthouse might be attacked and burned. We moved in there and found what fire fighting equipment we could, taking positions at the doors to hold [212] the courthouse against such storming if necessary.

We stayed on possibly about thirty minutes, and then I disarmed my men, and in groups of twos and threes, so they wouldn't provoke the crowd, sent them home.

Q. Mr. Grant, were you in Clinton most of that night?

A. In Clinton all of that night.

Q. Do you know how long the groups or the mob you have described remained around the courthouse square and in and around the schoolhouse area?

A. After the Patrol arrived, the mob became a crowd again, not too belligerent a crowd; they were more fascinated by the troopers' appearance and equipment than they were interested in prolonging their resistance.

At this time a speaker whom I had prevented from speaking began a speech. We made sure it was calm. The troopers cleared the road. The crowd didn't resist this. They cleared the road and allowed Mr. Kernshaw to address the audience.

He told them there would be no violence, no rabble rousing.

Mr. Lewallen: Mr. Grant, let me ask you this:

Q. Were you there on Sunday?

A. Yes, I was there again on Sunday when the guard arrived.

[213] Q. When you say "guard", will you state for the record what you mean?

A. The Tennessee National Guard, under command of Colonel Warren Giles as group commander of two battalions, put in an appearance.

Major General Joe Henry, State Adjutant General, arrived. Captain O'Rearden, troop commander for the patrol turned his assignment over—the security of the town over to the guard.

Q. Do you know approximately how many men were brought in, or necessary to bring in there, the National Guard?

A. Yes. Two battalions. The first vehicles that I saw were Jeep-mounted M. P. batallions. Of course, they had a reconnaissance batallion, which contains an M-41 tank.

Q. Do you know how many men were brought, in approximately?

The Witness: You mean, that I personally saw?

Q. Well, do you know how many were brought in?

A. I know the composition of the reconnaissance battalion, yes, but as far as vehicles that I saw——

Q. Do you know approximately how many men it was necessary to bring in to restore order at Clinton?

A. 667.

[214] Q. 667?

A. Yes, sir.

Q. Now, Mr. Grant, since the National Guard has been there—were you there on Sunday night after the National Guard arrived around noon some time that day?

A. At the time, I was acting as bodyguard for your wife and child. There was a throng of people—I guess that is the proper word—gathered in front of the theater. General Henry felt that the people were peaceful and would cause no trouble.

About an hour later, it was necessary to disperse them with a skirmish line. The skirmish line had fixed bayonets, and some of them had gas masks.

Q. Would you say it was necessary for the National Guard to have fixed bayonets to disperse the mob or crowd that was gathering there?

A. As to the necessity, I don't know, but the fact that the troop commander felt it was, and they fixed bayonets and had tear gas ready, and a very efficient man moved the crowd on, dispersed it.

Q. Now, Mr. Grant, do you know whether it has been necessary to prohibit or lay down some stringent rules on the part of the military there?

A. Yes. General Henry has issued an order which has been very efficiently enforced, that there will be no public [215] assembly, there will be no use of public amplifier systems, there will be no parking on the courthouse square after 6:00 p. m. He has also found it necessary to establish road blocks, and he tells me he has turned back 50 per cent of the vehicles coming into Clinton as containing people that had no business in Clinton, didn't live there and had not satisfactory motives for coming in.

Mr. LEWALLEN: Let me ask you this:

Q. Do you have any knowledge of any disturbance in any other part of Anderson County?

A. Yes, I do. I stayed up all night——

Mr. Simmons: If your Honor please, I wonder how far the Court is going to permit this latitude. I am not interested in——

The Court: Yes. The details; I am not interested in; just the overall picture.

Mr. Lewallen: Just this one further thing:

Q. Do you know whether it has been necessary for some of these rioters to be arrested by the military?

By the Witness:

A. Yes, I do.

I have seen persons brought in. I have seen persons forcibly brought in, restrained at gun point. I have seen newspaper men and photographers attacked by these persons—not by these persons, but by their friends and asso- [216] ciates upon their release.

I have personally received threats too numerous to count or record.

Mr. Lewallen: You may ask him.

Cross-Examination.

By Mr. Simmons:

Q. I believe you testified earlier that you live in Oak Ridge?

A. I do, sir.

Q. Did you volunteer your services or were your services requested?

A. They were asked, requested.

Q. Was there any hostility there reflected against you which you could feel because you were a resident of Oak Ridge; not a resident of Clinton?

A. No. None of the residents in the mob were in position—the mob was mainly composed of nonresidents. They were not in position to criticize my presence there.

Q. You had a detail of 47 men?

A. Yes, sir.

Q. You took your orders from whom?

A. Took them from the assistant chief of police. The chief of police was sick. The assistant chief of police in some cases—I took my orders from the mayor, the chief [217] law enforcement officer of the town, Mayor Everett Lewallen.

Q. Who is the authority there in Clinton that actually deputized you and your men?

A. The city judge swore us in, Paul Horton.

Q. As deputy sheriff?

A. No; city policemen, under a special resolution of the city council which met that morning.

Q. Then, after you and your crowd were sworn in as city policemen, then you were armed?

A. Yes, sir.

Q. Where did you obtain your arms?

Mr. LEWALLEN: Your Honor, we don't think that is material in this matter. Certainly these men——

Mr. SIMMONS: Well, I don't really care.

By Mr. SIMMONS:

Q. At the time you were there dealing with this crowd, I believe you said that no one in the crowd, so far as you knew, were armed or there was no manifestation of arms?

By the WITNESS:

A. Well, I took two dynamite caps away from one person that was arrested, and one individual came forward, started to draw a pistol from his belt, and changed his mind and stuffed it back in his belt and faded back into the crowd.

We would have arrested him—in fact we were on our [218] way to do it, but we had our hands full, and by the time we assembled he was gone. That was all of the weapons I saw.

Q. Prior to your taking over there in that capacity, had you previously called upon the governor of Tennessee?

The WITNESS: Did I?

Q. Or the head of the Tennessee Highway Patrol, for assistance?

A. I, personally, no. The only state official I talked to was after we were in this slugging match. The general called—a runner came down and said I was wanted on the telephone. I went back into the courthouse, put another man in charge.

The Adjutant General of the state asked me what the situation was. I advised him that in my opinion it was critical, that if the mob ever lost its interest in attacking us, I could not possibly control the situation, because I had no mobility. We were on foot. The Patrol's arrival would protect the town, and we could take care of ourselves.

Q. At the time you and your crowd were deputized, the State Patrol had been requested?

A. Had been requested, yes, sir.

Q. And were they enroute to Clinton at the time your crowd was deputized?

A. No, sir, not that I know of.

[219] The first word that I had that the Patrol was actually coming—you see, the Patrol had been requested Wednesday, Thursday, Friday, and had not put in an appearance. The Patrol was requested Saturday and had not yet put in an appearance. At about a quarter—no. About 8:30—somewhere around 8:30 or a quarter of nine—no. 7:30 or a quarter of eight. The time is confusing. A newsman grabbed my sleeve and advised me that the Patrol was mustering in Alcoa Highway. I had heard this rumor, I think, every night last week, so I told him that I would appreciate it if he would not tell this to my men, that when the Patrol got there we would believe it when we saw it, that we had heard it before.

Q. So, in substance, after the Patrol arrived you and your crowd became inactive?

A. Immediately as soon as the sirens—in fact, when the first vehicle hit the intersection, I gave my signal for assembly, got my men together, because I was afraid the Patrol might come in shooting, and we were logical targets, with our weapons.

Q. After the Patrol arrived, certain restrictions were placed into effect which you have enumerated; is that correct?

A. Yes.

Q. They placed those restrictions?

A. The Patrol did not place these restrictions. The Patrol did nothing except secure the town.

[220] They relieved my sentries at various places throughout the town, and they cleared the traffic jam which, with their vehicles, they could do and I couldn't do, and they placed a skirmish line, armed with sub-machine guns around the crowd, moved it onto the courthouse, and allowed a man who identified himself to me as Kernshaw to address the crowd. His address was peaceful. They then—he finished. In fact, he requested the crowd to disperse, and the crowd didn't do this, and one of the Patrol officers, either Lieutenant Moody or Captain O'Rearden told them that the Patrol would remain in the skirmish line until they went home. When he said this, they started moving out.

The next morning, Sunday, the Guard placed no restrictions. The Guard thought it was going to be a picnic type of affair.

After it was necessary to move the crowd out at bayonet point Sunday night, General Henry issued this five-point order under which the city is still relatively calm and peaceful.

Q. And those restrictions still remain in effect?

A. Yes, sir.

Q. Including the restriction that no speakers are allowed there either?

A. Yes. That is correct.

Q. So, Mr. Grant, since the State Patrol arrived, since [221] the militia arrived, National Guard arrived, you say that things have been peaceful there in Clinton?

A. In the city, yes, sir.

Q. During this time, Mr. Grant—I think this is fairly obvious, but I will ask to get it in the record—Mr. Kasper was not there, was he?

A. No, sir. I did not see him.

Mr. SIMMONS: I believe that is all.

Mr. LEWALLEN: One further question.

REDIRECT EXAMINATION.

By Mr. LEWALLEN:

Q. Will you tell his Honor, please, the approximate distance from the courthouse lawn there to the schoolhouse, the Clinton High School property?

A. Oh, a quarter of a mile. Perhaps not that far. I had to run down there.

At one stage I got a report that the crowd was going to dynamite the schoolhouse. We could not spare any men, so I grabbed a sub-machine gun and took off down there——

Q. It was close enough for the crowd to surge back and forth?

A. Oh, yes, they were able to do that.

Q. They were actually separated by one city block?

A. No, not one city block; there are a couple of little [222] intersections. It is not a city block. It is a continuous area there. The courthouse, the city hall, and the high school are a cluster of government buildings right in there. There is no great distance between them.

Mr. LEWALLEN: Thank you. That is all.

(Witness excused.)

D. J. BRITTAIN, Jr., having been previously sworn, was recalled and was examined and testified further as follows:

REDIRECT EXAMINATION.

By Mr. DAVIS:

Q. Please state your name.

A. D. J. Brittain, Jr.

Q. Mr. Brittain, you are principal of Clinton High School and testified at the previous hearing; is that correct?

A. Yes, sir, that is correct.

Q. Mr. Brittain, I want to confine our inquiry and your answers to things that happened since that hearing, since the preliminary injunction was granted.

A. Yes, sir.

Q. Would you tell the Court what the situation has been in Clinton High School in regard to attendance of students [223] their attitude, and so forth, and your relationship with the parents since that restraining order was issued?

The WITNESS: What day was that order issued?

Mr. DAVIS: August 31st.

The WITNESS: That was on Friday?

Mr. DAVIS: Friday, yes.

By the WITNESS:

A. According to my records, which are approximately correct—there might be a variation of two or three—on Tuesday following Labor Day—I don't remember the exact date. I believe that is the 5th. Is that correct?

Mr. DAVIS: The 4th of September.

A. The 4th of September.

We had 266 students present. On Wednesday we had 325. Today we have 394.

Mr. SIMMONS: I didn't get that last figure.

The WITNESS: 394.

By Mr. DAVIS:

Q. What was the enrollment, Mr. Brittain?

By the WITNESS:

A. Our top enrollment was 806 students. We have had 12 transfer students, which would reduce that, I believe, to 794, if my mathematics are correct.

Q. Mr. Brittain, how many students were in school on Friday of last week?

[224] A. On Friday of last week there were approximately—again I say this is the approximate number. There were approximately 500 students in school on Friday.

Q. Of last week?

A. Of last week.

Q. Have you made an investigation of the reasons for the absenteeism?

A. We made an investigation, informal investigation, your Honor, which I would not go so far as to say is an accurate figure, but we, of course, have been concerned about the matter and wanted to know what the reason was.

So, on yesterday, Tuesday, we asked all of the students who were present—the new students that were present—to try to find out why the new students that were not present were not coming to school. Not for names. We asked for no names or anything; we just wanted to know—again, I repeat, your Honor, that this information is all of a general nature. We received this type of information.

Of 83 that were there, the parents were opposed to integration.

Fifty-eight were, for one reason or another, afraid. I do not mean, necessarily, that they were threatened, but because of all the turmoil and excitement that had taken place, they just did not want their children in school.

We had twelve of this number who transferred to another [225] school. We had 27 who were legitimately absent from sickness or from some other reason.

Two hundred we were not able to contact at all or we did not have any information about.

Q. Mr. Brittain, have you contacted any parents directly as to reasons of why children were away from school?

A. I have not made a point of going out and contacting them.

Q. I mean, have they come there to school?

A. I have had parents call me and I have had parents contact me in person at the school. I have had parents call me on the telephone and asked if I could guarantee them 100 per cent safety for their children if they came to school. I told them I certainly could not. They said they were afraid to send their children to school, for fear they might be injured in some way, not that any individual would necessarily injure a child intentionally, but that

through those crowds, and so forth and so on, there might be injury involved.

I also had three women who came into my office there very much disturbed. This was on Tuesday morning, and they informed me that they wanted their children taken out of school, because they had been told there was a bomb planted under the school which was to go off that day.

I immediately called General Henry's office, of the State [226] Guard, and they sent men over and inspected the school and found no evidence at all. Of course, I assumed there was nothing there.

Q. Was there any indication of violence or threatened violence?

A. Yes. I had a few parents tell me that they had been told that as soon as the Guard left Clinton that their houses would be dynamited if they sent their children to school. And they said, of course, they wanted me to understand they didn't want their children counted absent from school. I told them certainly if they were afraid that we wouldn't urge them to keep their children in school.

Q. Mr. Brittain, do you know of any organization among those opposed to this court order to integrate Clinton High School?

A. No, sir, I do not know of any organization.

Q. I mean, an organization by parents other than the White Citizens Council?

A. Only by rumor.

Mr. Davis: All right, sir.

You may ask him.

RECROSS-EXAMINATION.

By Mr. Simmons:

Q. Mr. Brittain, over these several days, will you retrace [227] for us the number of colored pupils that have been in attendance at the school since the other hearing in this Court?

A. I will as closely as I can, sir.

I believe that on Monday there were no students present, no Negro students—no, Tuesday. I beg your pardon. We had no school on Monday.

On Tuesday there were nine students present.

On Wednesday there were twelve students present. One left because of illness while she was at school, and on Thursday—this is only by information, since I came over here this morning—I have been informed that eleven students are in school.

Q. Last Friday, how many were there?

A. Last Friday, I would say approximately twelve. I might be off one. There might have been eleven. I don't have that figure down on here.

Q. How many colored children are enrolled in the school?

A. There are twelve Negroes.

Q. So that all of them were present last Friday, and nine of them were present Tuesday?

A. Yes, sir.

Q. Did you ascertain the reason for the absence of the other three?

A. The assistant principal did, Mrs. Moser. She in-
[228] formed me that one child was absent because of asthma. That was the child we excused the second day. Two of the children had not returned from the Labor Day vacation.

Q. Wednesday there were twelve?

A. Yes, sir, twelve came in. We excused one to go home because she was sick.

Q. Today there are eleven?

A. Yes, sir. That is the information I have. I was not in school this morning.

Q. Since the last hearing in this Court, Mr. Kasper has not contacted you in any way?

A. No, sir, he has not.

Q. In any manner, fashion, or form?

A. No, sir, he has not.

Mr. SIMMONS: That is all. Thank you.

Mr. DAVIS: That is all.

(Witness excused.)

CLYDE WOODWARD, called as a witness in behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. FISCHER:

Q. State your name.

[229] A. My name is Clyde Woodward.

Q. You are a sheriff of Anderson County, Tennessee?

A. Yes, sir.

Q. When did you assume office of sheriff of Anderson County, Tennessee?

A. Friday night at about 12:02, I believe.

Q. Where were you sworn in?

A. I was sworn in at the jail.

Mr. SIMMONS: We will concede he is sheriff.

By Mr. FISCHER:

Q. How far is the jail from the courthouse?

A. I would say approximately 75 yards from the school to the courthouse.

Q. Can you describe the condition that existed there in Clinton right after you were sworn in as the sheriff?

A. Well, immediately after I was sworn in as sheriff, I went up to the front of the courthouse. On the roadway there was a large congregation of people gathered there.

Q. What were those people doing?

A. Well, they were just milling around there, more or less. They were out in the road. At the road, they were kind of congested.

Q. Did you see any acts there of destruction of property, or violence?

[230] A. Yes, sir, I did.

Shortly after I went up there, the traffic stopped at the traffic light down there. I noticed several people running up to a vehicle, around the side of it, grabbed it, and attempted to turn the car over. It seemed that was what they were trying to do.

Q. Did you know the people in that vehicle?

A. No, sir, I did not.

Q. Can you tell us whether they were Negroes or white people?

A. I just merely had a glance at them. I think they were colored people. I immediately ran to the car.

Q. Sheriff, how long did you remain there that morning or that night?

A. Oh, I expect I stayed there—I would say approximately an hour.

Q. What was the condition of the crowd during that time?

A. Well, at that time they were out in the road, blocking the road. I went up along the front there where they were at, and talked to them and asked them to move back off the road, told them they were doing wrong, they could not succeed in their cause in acting the way they were trying to do it, then I came over to the drug store over there. Apparently most of them kind of followed me over.

[231] A lot of people told me that they would go home, that they were glad to see me there. They didn't know I was the new sheriff. I told them who I was, and they seemed to follow me over to the drug store. I walked over on that side over there.

Q. Any more violence that night?

A. No, there wasn't any more that night.

Q. When did you get to Clinton that night?

A. I came down there—I expect it was around 11:00 o'clock.

Q. Did you see any violence before then?

A. No, sir, I didn't. I went straight down to the jail.

Mr. Fischer: I believe that is all.

CROSS-EXAMINATION.

By Mr. Simmons:

Q. Mr. Woodward, did you request the State for help in this situation?

A. Yes, sir, I did.

Q. Whom did you make the request of?

A. Well, I made the request of the Governor.

Q. Why did you make the request for additional police help?

A. Well, I felt that the situation was beyond my control, [232] that I couldn't handle it. We only had about eight men there, my staff, and I felt like we couldn't do anything about it. I felt it was my obligation to call for help.

Q. After the State Patrolmen arrived——

The WITNESS: I beg your pardon?

Q. After the State Patrolmen arrived, did you have any difficulty then in Clinton?

A. Well, no sir. Not then. They taken over. I was with them. I came with them.

Q. Now that the State National Guard have arrived, is there any difficulty in Clinton?

A. Well, I would say there have been, yes.

Q. Sir?

A. Yes, they have had difficulty.

Q. Is there any difficulty there at the present time?

A. I couldn't tell you. I am not there right now.

Q. When were you there?

A. I left there approximately an hour ago.

Q. An hour ago was there any difficulty?

A. No, sir, not at that time, there wasn't.

Q. Everything was peaceful and quiet in Clinton, Tennessee, an hour ago?

A. Yes, sir, when I came through there. As far as I [233] know, yes, sir. I didn't see anything wrong.

Q. Now, Mr. Woodward, since you have been in office, has Mr. Kasper been there, or have you seen Kasper there?

A. No, sir, I have not seen him.

Q. Do you know Mr. Kasper?

A. I do not.

Q. So, you don't know of your own knowledge whether he participated in any of this, or do you?

A. Well, I did come down to Clinton at one time. I remember that he was speaking on the courthouse steps there.

Q. How many other speakers have you seen in Clinton during the past month?

The WITNESS: In the past month?

Q. In the past two weeks, I mean.

A. Well, I would say I have seen maybe two or three besides him.

Q. Have you been there in Clinton at night around in front of the courthouse?

A. Well, I did make it a point one night to come down there.

Q. And speakers were on hand that night?

A. The night I am referring to is the night this gentleman right here was speaking, Kasper. That was before I [234] took office.

Q. Any other speakers that night besides Kasper?

A. I didn't hear anyone else, didn't see anyone else.

Q. Is that the only time you heard a speech from him there at the courthouse?

A. No, sir, it is not.

Q. How many other people have you heard make speeches while you were present there at the courthouse?

A. Well, I know of about two more persons.

Q. Two more?

A. Yes, sir.

Q. Is that all?

A. Yes, sir.

Q. By common knowledge, you know there have been dozens of them, don't you?

A. Well, I have heard about them, yes, sir, but I wouldn't say "dozens".

Q. There is no speechmaking there now, however?

A. No, sir, not since the troopers came in there they haven't been making any speeches.

Q. Since the troopers came in there, there has been no speechmaking?

A. Not now, no, sir——

Q. Well, have you——

[235] A. (Continuing) —with the exception the Highway Patrol the night they came in, they were making speeches there.

Mr. SIMMONS: That is all.

Mr. FISCHER: That is all.

(Witness excused.)

Mr. FISCHER: That is our case, your Honor.

The COURT: All right, sir.

[243] The COURT: Now, gentlemen, is there anything further from any person connected with this litigation?

Mr. SIMMONS: Nothing further for the respondent.